Pfizer Inc.
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New York, NY 10001

Dear Madam Chair and Senate Committee on Financial Institutions:

We respectfully request that you vote no on SB 284 regarding the 340B prescription drug program, which we strongly believe would not benefit patients and would further escalate the un-checked growth of the 340B prescription drug program. Pfizer supports the 340B program's goal of providing affordable medicines to uninsured and low-income patients. Unfortunately, the 340B program is not serving the interests of patients, and federal reforms are needed to ensure patients benefit from 340B discounts. Pfizer is committed to this crucial federal program but believes that SB 284 is a misguided effort that will not help Kansans.

Pfizer is a research-based, global biopharmaceutical company that applies science and our global resources to bring therapies to people that extend and significantly improve their lives through the discovery, development and manufacture of medicines and vaccines. Pfizer is proud of its manufacturing operations in Kansas. Pfizer has made significant investments in its 750,000 square foot facility in McPherson, which employs approximately 1,400. Since 2017, Pfizer has invested approximately $6.4 billion in our U.S. manufacturing sites, driving cutting-edge innovation in our manufacturing practices.

The 340B program is a creation of federal law, and any attempts by states to impose new requirements on manufacturers or to dictate restrictions beyond those imposed by the 340B statute would conflict with and "stan[d] as an obstacle to the accomplishment and execution of the full purposes and objective of Congress."[1] Specifically, the 340B statute expressly (i) defines which entities may receive 340B discounts, (ii) prohibits the diversion of drugs subject to a 340B discount to any person who is not a "patient" of the entity eligible for the discount, and (iii) protects manufacturers from duplicate discounts with respect to these drugs.

The federal statute creates a carefully calibrated structure that Congress adopted to balance the interests of the different stakeholders involved in the 340B program. State law may not upset that careful balance.[2] As such, Pfizer believes that state governments, including Kansas, may not dictate whether manufacturers are required to ship 340B discounted drugs to third-party "contract pharmacies," including for-profit pharmacies, on behalf of 340B covered entities. Whether manufacturers can be required to ship 340B drugs to contract pharmacies is currently being litigated in several federal courts across the country. Moreover, in litigation about the federal 340B statute, multiple federal courts, including both the District of Columbia and Third Circuit Court of Appeals, have specifically found that the federal statute does not require delivery of 340B-discounted drugs to an unlimited number of contract pharmacies.[3]

The 340B program is broken and growing out of control, having already become the second largest federal drug program behind only Medicare Part D.[4] Unfortunately, there is scant evidence that expansion of the program is improving access to care, improving the quality of care, or lowering cost for patients most in

[1] *Fidelity Fed. Sav. & Loan Assn. v. De la Cuesta*, 458 U. S. 141, 152-153 (1982).

[2] *See Engine Mfrs. Ass'n v. S. Coast Air Quality Mgmt. Dist.*, 541 U.S. 246, 255 (2004) ("[I]f one State . . . may enact" rules that frustrate Congress's goals, "then so may any other; and the end result would undo Congress's carefully calibrated regulatory scheme.").

[3] *Sanofi Aventis U.S. LLC v. United States Department of Health & Hum. Servs.*, 58 F.4th 696 (3d Cir. 2023).

[4] Drug Channels, "EXCLUSIVE: The 340B Program Reached $54 Billion in 2022—Up 22% vs. 2021." Sept. 24, 2023. Available at: https://www.drugchannels.net/2023/09/exclusive-340b-program-reached-54.html.

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need. According to a study funded by the Agency for Healthcare Research and Quality (AHRQ), "financial gains for [340B] hospitals have not been associated with clear evidence of expanded care or lower mortality among low-income patients."[5] Sixty-five percent of Disproportionate Share Hospitals (DSH) hospitals – which account for more than 80% of 340B sales – provide less charity care as a percentage of operating costs than the national average for all hospitals.[6-7] In Kansas, 84% of 340B hospitals are below the national average for charity care levels.[8]

Along with providing low levels of charity care, 340B covered entities are also choosing to expand their contract pharmacy footprints well outside their local communities, often choosing pharmacies in high income neighborhoods or pharmacies outside of the state altogether. Of the contract pharmacies located within the Kansas state borders, only 51% are in rural areas despite 67% of the state's zip codes being considered rural.[9] At the same time, Kansas covered entities have over 400 contract pharmacies located in nearly 27 other states, including California, New York, Oregon, and Hawaii.[10] It is incumbent upon Congress at the federal level to enact reforms to this federal program to curb these abuses and ensure vulnerable patients benefit from the program.

Language in SB 284 would force manufacturers to ship 340B drugs to an unlimited number of contract pharmacies, including potentially the hundreds of pharmacies outside the state of Kansas—a requirement that would imprudently and inappropriately go far beyond what the federal program requires under the careful balance Congress struck in the 340B statute. This would further accelerate the already exponential growth of the 340B program, giving PBMs and for-profit entities even more opportunity to unfairly profit from the program while not truly helping patients, and potentially hurting community pharmacies.

In closing, Pfizer is committed to safeguarding the 340B program and supports federal efforts to ensure that it serves the patients that it was designed to help. However, we believe this legislation will not further that instead would be inconsistent with and frustrate the careful balance that Congress intended and imposed for this federal program. We strongly urge a no vote on SB 284.

Please do not hesitate to reach out Yancy Williams, Pfizer State Government Relations Director, at yancy.williams@pfizer.com if you have any questions.

[5] Desai SM, McWilliams JM. "340B Drug Pricing Program and Hospital Provision of Uncompensated Care," American Journal and Managed Care, 2021; 27(10).
[6] AIR340B. "Left Behind: An Analysis of Charity Care Provided by Hospitals Enrolled in the 340B Drug Pricing Program," February 2022. https://340breform.org/wp-content/uploads/2022/02/AIR340B_LeftBehind_2022.pdf
[7] BIO Issue Brief, "How DSH Hospitals Abuse the 340B Drug Pricing Program." Available at: https://archive.bio.org/sites/default/files/docs/toolkit/BIO_IssueBrief_Hospitals_v8_0.pdf.
[8] PhRMA, BRG Analysis of HRSA OPAIS Database and Medicare Cost Reports. October 2023.
[9] PhRMA, BRG Analysis of HRSA OPAIS Database and Medicare Cost Reports. February 2025.
[10] *Ibid ref. 8.*