

House Industry, Business and Labor Public Hearing
HB 1473
Relating to prohibited acts of drug manufacturers

Dear Committee Chair and Members:

Thank you for allowing me to provide you with the following written testimony concerning HB 1473. I am providing this testimony as a neutral observer. All of the data provided in this testimony is available online through a tool developed by the Pioneer Institute utilizing data from the Health Resources and Services Administration (HRSA) and Rand Corporation. The website for the tool is <https://pioneerinstitute.org/340babuse/>. The information I am providing summarizes the findings regarding the 340B program in North Dakota.

Key Points:

- North Dakota's low-income taxpayers are required to utilize for-profit 340B contract pharmacies in Hawaii and California, amongst many other states.
- **70%** of the contract pharmacies intended to serve poor patients in North Dakota are located in affluent neighborhoods.
- North Dakota 340B hospitals (**0.90%**) provide less charity care than the national average (**2.15%**).

Total number of contract pharmacies intended to serve needy patients in North Dakota – **261**

Number of contract pharmacies intended to serve North Dakota's needy patients that are located outside of North Dakota – **134**

Summary: **51%** of 340B pharmacies serving poor patients in North Dakota are located outside the state.

Top 5 340B Hospitals in North Dakota and Percentage of Contract Pharmacies Outside the State Lines

SANFORD MEDICAL CENTER FARGO (69%)

SANFORD BISMARCK (54%)

INNOVIS HEALTH (76%)

ALTRU HOSPITAL (71%)

NELSON COUNTY HEALTH SYSTEM-HOSPITAL (70%)

Summary: **67%** of 340B contract pharmacies for North Dakota's Top 5 340B hospitals are based outside the state.

Distribution of contract pharmacies in the State of North Dakota in affluent and poor neighborhoods

Summary: **70%** of the 340B pharmacies supposedly serving the poor are in affluent neighborhoods in North Dakota.

Most out-of-state contract pharmacies providing care for North Dakota patients are owned by for-profit chain drug stores or pharmacy benefit management (PBM) companies.

Provision of charity care: North Dakota hospitals eligible for the 340B discount provide less charity care (**0.90%**) than the national average for similar hospitals (**2.15%**).

North Dakota hospitals eligible for the 340B discount provide only (**0.53%**) charity care for uninsured patients.

The top North Dakota hospital with the highest operating expenses eligible for 340B discounts provides more charity care (**1.06%**) than the state (**0.90%**) but less than the national average (**2.15%**).

The questions the committee should consider are:

1. Why so many contract pharmacies?
2. Why are there so many contract pharmacies outside North Dakota, as far as Hawaii and California?
3. Why are so many contract pharmacies in affluent neighborhoods instead of poorer neighborhoods where patients live?
5. Why do the institutions eligible for 340B discounts in North Dakota provide less charity care than the national average?

340B is a great program that ought to be preserved. Unfortunately, large hospitals and contract pharmacies have taken over the program without much accountability.

The 340B program requires more transparency, not less. In fact, through transparency, pharmacies, and institutions that do right by patients will be rewarded. The prohibition of biopharmaceutical companies from determining whether a drug was dispensed for an eligible 340B patient through contract pharmacies creates an environment for further opacity and potential for abuse.

Federal law explicitly prohibits "duplicate discounts," where manufacturers must give both a steep 340B discount to hospitals and substantial rebates to State Medicaid programs for the same dispensed drug for the same patient. That's why biopharmaceutical companies need the information to ensure compliance with federal law. The General Accountability Office (GAO) has already voiced their opinion that the potential for noncompliance is a reality.

The passage of legislation denying the need for transparency and provision of data by contract pharmacies to ensure that the right patients benefit from this program is a step in the wrong direction.