

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
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KENNETH S. FINK, M.D., M.G.A., M.P.H.
DIRECTOR OF HEALTH
KA LUNA HO'ŌKELE

**Testimony in SUPPORT of HB712 HD2
RELATING TO HEALTH.**

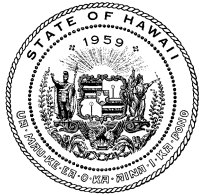
SEN. JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

SEN. JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date: March 19, 2025

Room Number: 229

- 1 **Department Testimony:** The Department of Health (DOH) supports this measure to ensure the
- 2 integrity of the 340B Drug Pricing Program by authorizing a cause of action for local healthcare
- 3 providers.
- 4 This program is vital for Hawaii's overall health care system and for DOH, which depends on
- 5 340B pricing to deliver services to some of the most vulnerable populations, such as through the
- 6 department's Sexually Transmitted Infection clinic and HIV Drug Assistance Program.
- 7 Thank you for the opportunity to testify.



**STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY**
DEPARTMENT OF HEALTH - KA 'OIHANA OLAKINO

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII

KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

JOHN C. (JACK) LEWIN, M.D.
ADMINISTRATOR

March 13, 2025

To: SENATE COMMITTEE OF HEALTH AND HUMAN SERVICES
Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair and

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair and
Honorable Members

From: Jack Lewin, MD, Administrator, SHPDA and
Sr. Advisor to Governor Josh Green, MD on Healthcare Innovation

Re. **HB 712_HD2 - RELATING TO HEALTH (340B Drug program)**

Hearing: Wednesday, March 19, 2025 @ 9:30 am; Conference Room 229

Position: SUPPORT

Testimony:

SHPDA supports this bill, which protects access to necessary medications for safety net and rural populations. The federal 340B drug discounting program (340B program) is essential for providing health care access to low-income and uninsured populations. The 340B program requires drug manufacturers to offer significant discounts on outpatient medications to eligible nonprofit hospitals and safety net providers, rural hospitals, community health centers, and Native Hawaiian health centers.

The 340B program further helps stretch limited hospital resources, allowing reinvestment of savings into essential community benefits. These benefits include financial assistance for low-income patients, free wellness visits, screenings, vaccinations, transportation to appointments, health education classes, and workforce development programs. The 340B program also supports unique services such as integrating Native Hawaiian health practices into patient care.

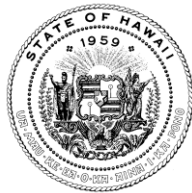
Despite the 340B program's importance, drug manufacturers have consistently tried to undermine the benefits provided by the program by limiting the use of contract pharmacies by 340B covered entities, which has made it particularly difficult for patients living in rural areas of the State. Contract pharmacies play a vital role in ensuring that 2

patients can access medications, especially in rural areas where many hospitals do not have an in-house pharmacy.

Contract pharmacies are crucial in Hawaii, where geographic barriers make access to health care difficult for many residents. Current restrictions imposed by drug manufacturers not only limit a patient's access to affordable medication, but also jeopardize the financial savings upon which hospitals, and especially rural hospitals, greatly depend.

The PHRMA (pharmaceutical) industry claims Hawai'i hospitals are allowing false or unwarranted claims for 340B prescriptions by ineligible patients as a reason for opposing this bill. SHPDA strongly believes this is not a problem in Hawai'i, given there has been absolutely no credible evidence of this presented by them.

Mahalo nui loa for the opportunity to testify.



JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Office of Consumer Protection

Before the
Senate Committee on Health and Human Services
Senate Committee on Commerce and Consumer Protection

Wednesday, March 19, 2025
9:30 AM

Via Videoconference
Conference Room 229

On the following measure:
H.B. 712, H.D. 2 Relating to Health

Chair San Buenaventura, Chair Keohokalole, and Members of the Committees:

My name is Melissa Enright, and I am an Enforcement Attorney at the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department offers comments on the bill.

The 340B Drug Discount Program enables eligible hospitals and other safety net providers to purchase outpatient prescription drugs at discounted prices.

The Department appreciates the amendments to the bill. The bill adds a new chapter to the Hawaii Revised Statutes and establishes its own enforcement mechanism. The bill authorizes 340B covered entities to file a civil action to enjoin

violations and obtain an award of attorneys' fees, and authorizes the Attorney General to file a civil enforcement action to enjoin violations and pursue civil penalties and other equitable relief.

Thank you for the opportunity to testify on this bill.

HB-712-HD-2

Submitted on: 3/13/2025 10:54:02 AM

Testimony for HHS on 3/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Aaron Ruddick	Testifying for Hep Free Hawaii	Support	Written Testimony Only

Comments:

Dear Chair San Buenaventura , Vice Chair Aquino and members of the HHS committee

Dear Chair Keohokalole, Vice Chair Fukunaga and members of the CPN committee

I support HB 712 HD2 . The 340B Drug Discount Program was established in 1992 to help safety-net providers such as critical access hospitals and federally qualified health centers stretch their scarce resources to serve the most vulnerable populations. The savings realized by these covered entities through the 340B program are required, by statute, to be reinvested back into the communities they serve by expanding patient access to services that would normally be unfunded. These services include such things as adult dental care, enabling services, clinical pharmacy programs, and affordable medication programs. Contract pharmacies serve as extensions of the covered entities, increasing patient access by reducing geographic and financial access barriers. Four out of ten health centers rely solely on contract pharmacies and nine out of ten health centers use contract pharmacies to meet their community’s medication access needs. Since 2020, drug manufacturers have begun restricting access to 340B priced medications at contract pharmacies such that 39 manufacturers now restrict shipments of their medications with limitations varying by covered entity type. This has resulted in dramatic decreases in the financial resources needed to support these otherwise unfunded patient access programs. Patient access to care and clinical outcomes suffer as a result.



HAWAI'I HEALTH &
HARM REDUCTION CENTER

677 Ala Moana Blvd, Ste 226
Honolulu, HI 96813

(808) 521-2437

www.hhhrc.org

*"Reducing harm,
promoting health,
creating wellness, and
fighting stigma
in Hawai'i and
the Pacific."*

TESTIMONY IN SUPPORT OF HB 712, HD 2

TO: Chair San Buenaventura, Vice Chair Aquino, & HHS Committee
Chair Keohokalole, Vice Chair Fukunaga, & CPN Committee

FROM: Nikos Leverenz, Policy & Advancement Manager

DATE: March 19, 2025 (8:30 AM)

Hawai'i Health & Harm Reduction Center (HHHC) **strongly supports** HB 712, HD 2, which prohibits drug manufacturers and wholesale distributors from restricting or denying access for pharmacies contracted with 340B covered entities to purchase 340B drugs at a discounted price under the federal 340B Drug Pricing Program.

The 340B Drug Discount Program was established in 1992 to help safety-net providers such as critical access hospitals and federally qualified health centers stretch their scarce resources to serve the most vulnerable populations. The savings realized by these covered entities through the 340B program are required, by statute, to be reinvested back into the communities they serve by expanding patient access to services that would normally be unfunded. These services include adult dental care, enabling services, clinical pharmacy programs, and affordable medication programs. Contract pharmacies serve as extensions of the covered entities, increasing patient access by reducing geographic and financial access barriers. 4 out of 10 health centers rely solely on contract pharmacies and 9 out of 19 health centers use contract pharmacies to meet their community's medication access needs.

Since 2020, drug manufacturers have begun restricting access to 340B priced medications at contract pharmacies such that 39 manufacturers now restrict shipments of their medications with limitations varying by covered entity type. This has resulted in dramatic decreases in the financial resources needed to support these otherwise unfunded patient access programs. Patient access to care and clinical outcomes suffer as a result.

HHHC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Many of our clients and participants have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.



Biotechnology Innovation Organization
1201 New York Ave, NW, Suite 1300
Washington, DC, 20005
202-962-9200

March 13, 2025

The Honorable Joy San Buenaventura
Chair, Senate Committee on Health and Human Services
Hawai'i House of Representatives
415 S Beretania St.
Honolulu, HI 96813

Dear Senator San Buenaventura and Members of the Committee:

The Biotechnology Innovation Organization (BIO) has an **oppose** position on **HB 712**, which is currently before your committee. This bill would prohibit biopharmaceutical manufacturers participating in the federal 340B Drug Discount Program ("340B Program") from establishing requirements or standards intended to ensure compliance with federal laws. BIO has very serious concerns with these provisions, which would enact state requirements in an exclusively federal program and would preclude legitimate efforts to ensure transparency and integrity in the 340B Program.

BIO is the world's largest trade association representing biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. BIO's members develop medical products and technologies to treat patients afflicted with serious diseases, delay their onset, or prevent them in the first place. In that way, our members' novel therapeutics, vaccines, and diagnostics not only have improved health outcomes, but also have reduced healthcare expenditures due to fewer physician office visits, hospitalizations, and surgical interventions. BIO membership includes biologics and vaccine manufacturers and developers who have worked closely with stakeholders across the spectrum, including the public health and advocacy communities, to support policies that help ensure access to innovative and life- saving medicines and vaccines for all individuals.

The 340B Program was enacted in 1992 to provide steeply discounted drugs to certain qualified hospitals and clinics, collectively referred to as "covered entities," intended to support these facilities' care to uninsured and underinsured patients. Covered entities are able dispense discounted drugs to patients and receive reimbursement by commercial payers at the full price, keeping the difference and providing a revenue stream for the covered entity. However, under federal law, 340B drugs cannot be subject to Medicaid rebates when dispensed to Medicaid beneficiaries ("duplicate discounts"). Additionally, 340B drugs may only be dispensed to patients of a covered entity; dispensing 340B drugs to ineligible patients is prohibited and referred to as "diversion" from the 340B program.

The 340B program has grown exponentially in volume over the past decade. the 340B program has expanded in ways that no one could have foreseen. From 2015 to 2021, purchases under

the program grew at an average rate of 24% per year and as of 2023 totaled \$66.3 billion.^{1, 2} 340B is now the second largest pharmaceutical program in the nation behind Medicare Part D.³ An October 2020 study found that from April 2010 to April 2020, contract pharmacy arrangements in the program grew by 4,228% from 2,321 in 2010 to 101,469 today.⁴ Because of this explosive growth in the 340B Program, it is important to ensure all appropriate federal laws are being followed and all steps are taken to prevent fraud, waste, and abuse.

In addition to 340B covered entities dispensing drugs directly to patients, the Health Resources and Services Administration (HRSA), which implements the program, has issued sub-regulatory guidance to allow covered entities to contract with outside pharmacies to dispense drugs to covered entities' patients. However, a heightened risk for duplicate discounts and diversion at contract pharmacies exists because, unlike at covered entities' in-house pharmacies, most of the patients visiting contract pharmacies are not eligible for 340B drugs. The federal Government Accountability Office (GAO) reports that contract pharmacies are a significant source of diversion and duplicate discounts, in part, because they often do not identify patients as 340B-eligible until after the prescription has been dispensed.⁵ In fact, the GAO also notes, "66 percent of the 380 diversion findings in HRSA audits involved drugs distributed at contract pharmacies."⁶

HRSA's main mode of enforcing the 340B program is through random audits. They audit 200 covered entities per year, and problems with duplicate discounts and diversion are common findings in audits, as well as working with "contract pharmacies" without any actual contract in place. Hawai'i facilities are found to have compliance issues approximately on par with the rest of the country. A report by the federal GAO in 2018 found that 72 percent of audits had findings of noncompliance.⁷ Unfortunately, the HRSA audit program has limitations, as indicted in the title of GAO's 2018 report: "Federal Oversight of Compliance at 340B Contract Pharmacies Needs Improvement."

Adding further concern to compliance concerns with contract pharmacies, HRSA does not even cite audit findings of noncompliance if the noncompliance is by a contract pharmacy. In another report in 2021, GAO states "HRSA officials told GAO that, beginning in fall 2019, the agency started issuing findings only when audit information presents a clear and direct violation of the requirements outlined in the 340B Program statute. HRSA officials explained that guidance, which is used to interpret provisions of the 340B statute for the purposes of promoting program compliance among covered entities, does not provide the agency with appropriate enforcement capability. For example, *HRSA officials reported that there were instances among fiscal year 2019 audits in which the agency did not issue findings for a failure to comply with guidance related to contract pharmacies in part because the 340B statute does not address contract pharmacy use and, therefore, there may not have been a clear statutory violation*" (emphasis added).⁸

¹ Fein, Adam, "What I (and Others) Told the Senate about the 340B Drug Pricing Program." Drug Channels, August 8, 2023. Accessed September 14, 2023. <https://www.drugchannels.net/2023/08/what-i-and-others-told-senate-about.html>

² Fein, Adam, The 340B Program Reached \$66 Billion in 2023- Up 23% vs 2022: Analyzing the Numbers and HRSA's Curious Actions." Drug Channels. October 22, 2024. Accessed December 10, 2024.

³ Blalock, Eleanor. Measuring the Relative Size of the 340B Program, BGR Group, June 2022.

⁴ Vandervelde, Aaron, et al., For-Profit Pharmacy Participation in the 340B Program, BRG Group, October 2020.

⁵ *Drug Discount Program: Federal Oversight of Compliance at 340B Contract Pharmacies Needs Improvement*, GAO Report, June 2018.

⁶ Ibid.

⁷ Ibid.

⁸ *Drug Pricing Program: HHS Uses Multiple Mechanisms to Help Ensure Compliance with 340B Requirements*, GAO Report, December 2020.

We strongly oppose this bill's provisions intended to prohibit biopharmaceutical manufacturers participating in the 340B Program from establishing requirements or standards to ensure compliance with federal laws. The use of contract pharmacies in the 340B Program simply has not been adequately policed by HRSA. It is for this reason that some manufacturers have put in place requirements for covered entities that use multiple contract pharmacies. This particular issue is currently being litigated in several federal courts, as there is no statutory requirement for manufacturers to extend 340B prices to contract pharmacies. Contract pharmacy was created through sub-regulatory federal guidance (guidance that HRSA itself has acknowledged is legally unenforceable⁹). This bill's provisions are nearly identical to bills in nearly *two dozen* other states this year, which are part of an effort by covered entities to inappropriately enshrine *their* interpretation of federal law into state statutes. Yet the belief that manufacturers have no ability to establish standards and must provide discounted 340B drugs to all contract pharmacies, regardless of a history of noncompliance, has been rejected by multiple courts.

Even beyond the exclusive federal jurisdiction of the 340B program and the multiple pending federal lawsuits, the policy contained in these provisions is flawed. Biopharmaceutical manufacturers have participated in the 340B Program for 30 years and, in doing so, provided hundreds of billions of dollars in financial support to covered entities. However, when evidence exists that certain arrangements (i.e., contract pharmacies) result in increased rates of illegal duplicate discounts and diversion of 340B drugs, it is untenable to preclude manufacturers from implementing *any* standards. In doing so, the state would be facilitating contract pharmacies' noncompliance with federal statute.

For these reasons, we respectfully oppose HB 712 and urge your NO vote on this measure. If you have any questions, please do not hesitate to contact me at bwarren@bio.org.

Sincerely,



Brian Warren
Vice President, State Government Affairs

⁹ "HRSA Urges Pharma to Continue 340B Discounts at Contract Pharmacies," *Inside Health Policy*, August 20, 2020.

To: The Honorable Joy San Buenaventura, Chair
The Honorable Henry Aquino, Vice Chair
Members, Senate Committee on Health & Human Services

The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
Members, Senate Committee on Commerce & Consumer Protection

From: Jace Mikulanec, Director, Government Relations, The Queen's Health Systems

Date: March 19, 2025

Re: Support for HB712 HD2: Relating to Health

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide testimony in support of HB712 HD2, which prohibits drug manufacturers from denying, restricting, or prohibiting the acquisition, shipping, or delivery of a 340B drug to pharmacies contracted with 340B covered entities under the federal 340B Drug Pricing Program and authorizes the 340B covered entity and Attorney General to bring a civil action for enforcement.

The Queen's Health Systems' hospitals relies on 340B program savings to stretch scarce federal resources to reach more patients and provide more comprehensive services exactly as Congress intended when they created the 340B program over 30 years ago. QHS 340B hospitals use affiliated and community based retail and specialty mail order pharmacies to expand the reach of the 340B program to allow patients to receive 340B drugs close to their home or work via a well-defined contract pharmacy network. These contract pharmacy relationships are required to adhere to all of the same rules and regulations governing the 340B program as the covered entity 340B hospitals.

Queen's 340B contract pharmacy networks have operated with great integrity since their inception, but in early 2020 as Hawai'i and the rest of the world was trying to deal with the Covid-19 pandemic, a handful of the world's most profitable drug manufactures created unnecessary and

The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.

burdensome barriers to 340B pricing. More than four years later, the number of manufactures nationally who restrict access to 340B pricing for hospitals has grown to 38. Many of the manufactures only allow shipping of their drugs to the 340B hospital parent or hospital outpatient clinics directly which is in direct conflict of the 340B program's intent of reaching more patients. These unilateral and arguably unlawful manufacture restrictions cost hospitals billions of dollars annually in increased drug cost and lost revenue. This is particularly troubling in today's healthcare landscape where rural, neighbor island, and critical access hospitals are asked to do more with less and are ceasing to exist with greater frequency; the result is creating challenges to access for populations who need services the most.

In Hawai'i, the manufactures' 340B contract pharmacy policies, again in direct conflict with the Congress' stated intent for 340B, cost Queen's and other Hawai'i hospitals and health centers millions in excess drug cost and lost revenue from their contract pharmacies; revenue that Queen's relies on to reinvest in programs that directly improve health outcomes for our patients. We implore you to take action to hold these companies accountable and protect the hospital and healthcare safety net that our communities depend on.

We support the suggested amendment provide by Healthcare Association of Hawai'i, adding a severability clause. Thank you for the opportunity to testify in support of HB712 HD2.



March 19, 2025 at 9:30 am
Conference Room 229

Senate Committee on Health and Human Services

To: Chair Joy A. San Buenaventura
Vice Chair Henry J.C. Aquino

Senate Committee on Commerce and Consumer Protection

To: Chair Jarrett Keohokalole
Vice Chair Carol Fukunaga

From: Hilton R. Raethel
President and CEO
Healthcare Association of Hawaii

Re: Strong Support
HB 712 HD 2, Relating to Health

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 30,000 people statewide.

I am writing today in **strong support** of this measure, which would prohibit unfair practices by drug manufacturers to limit the ability of safety-net providers to access discounted outpatient drugs through the 340B drug pricing program. More than 20 states have taken action to preserve the integrity of the program and to ensure that community hospitals, health centers, and other essential providers can continue to provide key services and benefits to residents in Hawaii. These unfair practices are currently costing the state at least \$30 million in savings that would be best used to support underserved communities in the state.

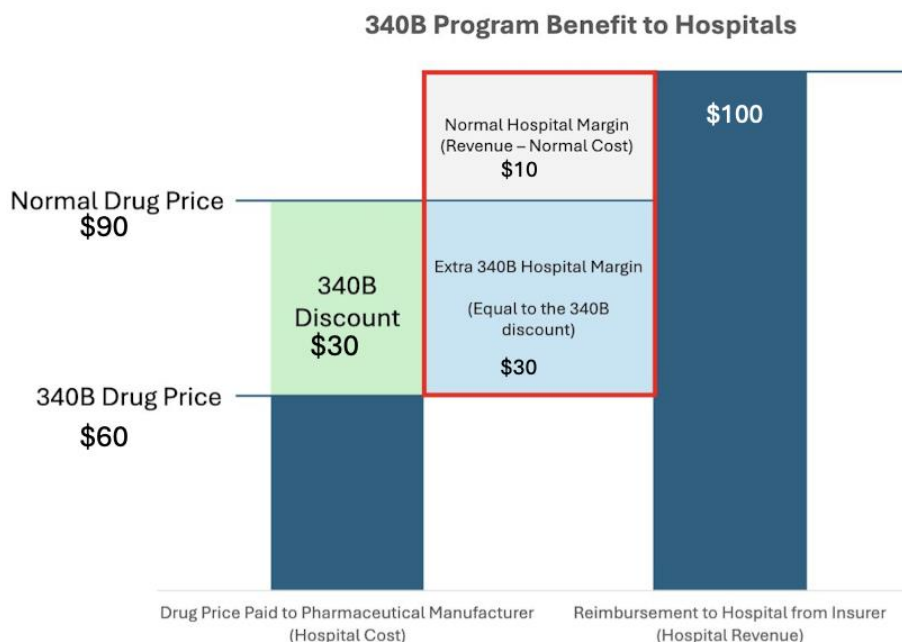
We support the language included in this measure, which is also supported by the Attorney General's office, the Department of Health, and the Office of Consumer Protection. It is especially important that there are multiple mechanisms by which drug manufacturers can be held to account for their actions and ensure that safety net providers in the state are able to access these important savings. *We respectfully request an amendment to add a new section to*

insert a severability clause to ensure that any challenges to the measure are appropriately addressed. The full text of the requested amendment is at the end of this this testimony.

Specifically, we are asking the legislature to prohibit drug manufacturers from imposing limitations on the use of contract pharmacies by 340B providers. These unfair, unilateral restrictions take important funding away from non-profit hospitals, community health centers, and other safety net providers, while increasing profits for drug companies. We will provide background in this testimony to help ensure a full understanding of the issue—however, we do not believe that this issue, at its core, is complicated. The major decision to be made is whether \$30 million should stay with Hawaii providers or go to multinational corporations.

History and Mechanics of the 340B Program

The 340B drug pricing program was passed by Congress in 1992 to address two main issues: persistently high drug prices, and access to care for millions of Americans. The 340B program works by increasing the margin that a hospital makes when dispensing a drug. The margin on any transaction is equal to revenue minus cost. A hospital will receive reimbursement from an insurance company for any drug dispensed to a patient to cover the costs of the drug, along with any overhead costs such as labor or space. Under the 340B program, a hospital can acquire eligible drugs at a reduced rate and still receive the same reimbursement. Since their revenue is the same, but the costs are down, then the margin for the hospital increases. This increased margin is often referred to as “savings” generated through the 340B program.



These savings are used by 340B providers for programs such as financial assistance; free wellness visits; transportation to appointments; health education classes, such as

comprehensive weight management; free care to indigent patients; and investments in clinical training and workforce development. These savings are especially important for rural hospitals, which are critical facilities that anchor communities and often run zero to negative margins.

Who is Eligible in Hawaii

The federal statute allows non-profit hospitals that serve largely low-income and rural populations to participate in the program. In Hawaii, 15 hospitals qualify to participate in the program—many of which as HHSC facilities. Further, all federally qualified community health centers and Native Hawaiian health centers qualify for the program.

Hospital
Adventist Health Castle
Hilo Medical Center
Kahuku Medical Center
Kapiolani Medical Center for Women and Children
Ka'u Hospital
Kauai Veterans Memorial Hospital
Kona Community Hospital
Maui Health System
Molokai General Hospital
Pali Momi Medical Center
North Hawaii Community Hospital
Samuel Mahelona Memorial Hospital
Straub Clinic and Hospital
Queen's Medical Center
Wilcox Memorial Hospital

All eligible providers run negative, no, or extremely small budget margins. Any additional source of revenue is exceptionally important to providing basic care and ensuring that they are able to stay open and serve their communities.

The Appropriate Role of Contract Pharmacies

Contract pharmacies are a legitimate and important part of the healthcare system. Safety net hospitals typically have limited to no retail pharmacy services, meaning that they are unable to dispense many if not all of the drugs their patients might need on-site. As a result, they must

partner (or contract) with pharmacies in the community in order to access the wider inventory needed to adequately serve their patient populations. This is especially true for specialty drugs that require specialized handling, storage, and dispensing. In some cases, those drugs are so specialized that they can only be accessed through specialty pharmacies located outside of the state.

The intent of the 340B program is to provide a *discount on every dose*. The federal statute is indifferent on whether that dose comes directly from a hospital pharmacy, or a partner pharmacy in the community. The federal agency with oversight of the program, the Health Resources and Services Administration, agrees with this interpretation and has long allowed safety-net providers in the program to partner, or contract with, pharmacies in the community to ensure that providers can realize the full benefits of the program.

Drug companies are exploiting the fact that the federal statute is silent on the use of contract pharmacies, and imposing unilateral, unfair restrictions on their use. As a result, \$30 million in funding that has traditionally been used to support safety-net providers is going directly back to the pockets of drug companies as profit.

What Hawaii Can Do

Hawaii can join the majority of states in the nation in fighting back against these unfair restrictions by passing this measure. The language in this bill largely mirrors measures passed in other states that have successfully withstood legal challenges by the drug industry. The measure allows Hawaii as a state to exercise its right to control drug distribution by prohibiting drug companies from limiting the use of contract pharmacies. We can join the increasing number of states who are protecting safety net providers in their community in passing this court-tested language. *Importantly, states have prevailed in every single case that has been decided on this issue and we believe Hawaii will also be successful if this measure is passed.*

At its core, the 340B program is about preserving and expanding healthcare access for people who need it most. This is particularly critical as the current administration and Congress looks to drastically cut funding for safety net providers, including hospitals in Hawaii. Restricting contract pharmacies undermines the ability of hospitals and clinics to serve their communities and, in turn, threatens the health and well-being of the people of Hawaii. We must join with other states to protect our residents and patients and pass this critical legislation.

We request the following language (which is the standard language used by the Legislative Reference Bureau on severability) be inserted into section 2 of the measure:

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Wednesday, March 19, 2025 at 9:30 AM
Via Video Conference; Conference Room 229

Senate Committee on Health and Human Services

To: Senator Joy San Buenaventura, Chair
Senator Henry Aquino, Vice Chair

Senate Committee on Commerce and Consumer Protection

To: Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

From: Michael Robinson
Vice President, Government Relations & Community Affairs

**Re: Testimony in Support of HB 712, HD2
Relating to Health**

My name is Michael Robinson, and I am the Vice President of Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health (HPH) is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

HPH SUPPORTS HB 712, HD2, along with the amendments recommended by the Healthcare Association of Hawai'i. HB 712, HD2 prohibits drug manufacturers and wholesale distributors from restricting or denying access for pharmacies contracted with 340B covered entities to purchase 340B drugs at a discounted price under the federal 340B Drug Pricing Program (340B Program). The measure also authorizes the Attorney General and the 340B covered entity to bring a civil action for violations of the statute.

The federal 340B Drug Pricing Program has been essential for providing health care access to low-income and uninsured populations. Under the 340B Program, drug manufacturers are required to offer significant discounts on outpatient medications to eligible nonprofit hospitals and safety-net providers, rural hospitals, community health centers and Native Hawaiian health centers. The program provides eligible safety net hospitals access to discounted outpatient drugs; these savings help HPH offset losses its medical centers and clinics incur when caring for our state's most vulnerable and underserved individuals.

Contract pharmacies are a vital component to enable 340B eligible hospitals the ability to create a pharmacy network to ensure patients are able to have access to the medications they need beyond where our hospitals are physically located. This ability is especially crucial in Hawai'i due to geographic barriers such as location, size, and transportation challenges, which are particularly significant in rural and underserved communities where many care settings lack an in-house

pharmacy. More than 80% of rural 340B hospitals nationwide rely on contract pharmacies to dispense medication to patients who may be unable to obtain their medication otherwise. However, drug manufacturers have consistently attempted to undermine the benefits of the program by limiting the use of contract pharmacies by 340B covered entities, thereby limiting access to care for many patients.

For HPH, the 340B Drug Pricing Program is crucial in supporting our mission to create a healthier Hawai'i. HPH invests in programming and community support efforts that exceed the savings it receives from the 340B program. As an example, in FY 22, our 340B savings of \$32.7 million were less than half that of its total Community Benefit activity for FY22 of \$78.3 million.

The 340B Drug Pricing Program allows the financial flexibility needed to invest in tailored solutions that address the unique needs of communities we serve. Were the program to be eliminated or scaled back, the 340B-eligible medical centers in the Hawaii Pacific Health system would struggle to continue providing much-needed health care to low-income and underinsured individuals. It also would jeopardize our long-standing, vital partnerships with those providers who serve in isolated rural communities. Pharmaceutical manufacturer imposed reductions in 340B discounts have already resulted in a loss of more than \$12M between FY23 to FY24 in pharmaceutical savings at HPH.

Program Oversight and Compliance

There is extensive oversight of the program—including by drug manufacturers themselves – as well by providers. Both external and internal oversight and audits of hospitals participating in the 340B Drug Pricing Program are already extensive, with covered entities required to comply with strict reporting and compliance requirements.

HPH can assure full compliance with the 340B program by strictly adhering to all federal requirements and maintaining comprehensive, auditable records in line with federal guidelines. We continuously conduct both external and internal audits to evaluate and enhance our processes, ensuring the prevention of diversion to ineligible patients. Additionally, our covered entities fully align with the state MedQuest division's reporting requirements, effectively preventing duplicate discounts.

Additionally, the Health Resources and Services Administration (HRSA) conducts external audits to ensure that hospitals meet eligibility criteria, prevent drug diversion, and maintain proper patient eligibility records. Hospitals must also self-audit and maintain meticulous documentation to demonstrate compliance, making the assertion that the program lacks oversight misleading. Despite these existing safeguards, drug manufacturers have imposed additional burdens on hospitals, particularly those using contract pharmacies, by requiring participation in a third-party data submission platform known as 340B ESP.

While pharmaceutical manufacturers have made assertions that they have doubts over whether 340B discounts are being used appropriately. This is curious, since they have already imposed their own solution by mandating that hospitals report detailed claims data through 340B ESP as a condition of receiving discounted drugs at contract pharmacies. The drug manufacturers' reporting requirement places additional financial and administrative burdens on hospitals, many of which are already operating with limited resources. Hospitals must absorb the cost of using this third-party vendor while navigating the complex and frequently changing manufacturer restrictions on contract pharmacy arrangements. Rather than ensuring appropriate use of the program, these

requirements function as an unnecessary barrier to access, undermining the very intent of 340B of supporting hospitals serving vulnerable patient populations.

Passage in Other States & Legal Challenges Failed

Furthermore, it is worth noting that there are currently at least eight states that have passed similar legislation to HB 712 HD2 preventing manufacturer restrictions on 340B contract pharmacies [Arkansas (2021), Maryland (2022), Louisiana (2023), West Virginia (2024), Missouri (2024), Kansas (2024), Minnesota (2024), and Mississippi (2024)].

The language adopted in HB 712 has survived legal scrutiny in other states, where it has been determined that state action to preserve 340B savings is not preempted by the federal 340B program. For example, Arkansas passed a drug pricing law (Act 1103) - a law similar to what is proposed in HB 712 - which protects contract pharmacies from pharmaceutical company policies from restricting dispensing of 340B drugs to community and specialty pharmacy partners. Despite the law being challenged in Arkansas, the U.S. Court of Appeals for the Eighth Circuit's ruled that Section 340B of the Public Health Services Act does not preempt Arkansas' law. The Eighth Circuit's ruling was further affirmed when the U.S. Supreme Court refused to hear an appeal of the lower court's ruling challenging Arkansas' drug pricing law in December 2024.

Finally, HPH continues to support the conversations with the Department of the Attorney General, Department of Commerce and Consumer Affairs, the Department of Health and the Health Care Association of Hawai'i (HAH) on this measure in order to craft a law that implements the intent of the Federal 340B Drug Program and which is acceptable to the state agencies concerned. HB 712, HD2, which was drafted with the assistance of the Attorney General, is the product of this collaboration.

By prohibiting drug manufacturers from engaging in conduct that limits or denies access to 340B drugs, this measure would ensure that patients, especially low-income individuals and those residing in rural areas of the state, are able to have access to health care and obtain the medications they need.

Thank you for the opportunity to testify.

March 18, 2025

TO: Chair Joy A. San Buenaventura
Vice Chair Henry J.C. Aquino
Members of the Senate Committee on Health and Human Services

Chair Jarrett Keohokalole
Vice Chair Carol Fukunaga
Members of the Senate Committee on Commerce and Consumer
Protection

FROM: Pharmaceutical Research and Manufacturers of America (PhRMA)
(William Goo)

RE: **HB 712, HD2** - Relating to Health
Hearing Date: March 19, 2025
Time: 9:30 am

PhRMA opposes **HB 712, HD2**. Attached is PhRMA's testimony in opposition and proposed amendments.

Thank you for considering this testimony.

In Opposition to Hawaii HB 712, HD2

Position: The Pharmaceutical Research and Manufacturers of America (“PhRMA”) respectfully opposes HB 712, HD2. HB 712, HD2 would require biopharmaceutical manufacturers to ship 340B drugs to all pharmacies that contract with 340B “covered entities” and by extension offer 340B pricing at these locations. This type of provision not only raises constitutional concerns but also exacerbates existing problems with the 340B program without ensuring that vulnerable patients needing discounted medicines will benefit.

The 340B hospital markup program has become a hidden tax on employers, patients, and state employees.

Marking up the costs of 340B medicines for employer-sponsored commercial plans and patients with private insurance generates significant revenue for 340B hospitals. 340B hospitals collect 7 times as much as independent physician offices for the sale of medicines administered to commercially insured patientsⁱ and average spending per patient in the commercial market on outpatient medicines was more than 2.5 times higher at 340B hospitals than non-340B hospitals.ⁱⁱ

In addition, the current design of the program directly increases costs for employers by an estimated 4.2%, or \$5.2 billion, due to reduced rebates from manufacturers, and indirectly increases employer costs by incentivizing provider consolidation and use of higher cost medicines.^{iii,iv} With no obligation to invest profits from 340B markups at satellite facilities into underserved communities, 340B hospitals frequently purchase independent physician offices so they can then buy more medicines and increase their 340B profits. Further, incentives in the 340B program increase the use of higher-cost medicines as hospitals participating in 340B generally obtain substantially larger profits from more expensive medicines.

In an unprecedented report examining 340B hospital practices in its state, the North Carolina State Treasurer found North Carolina 340B hospitals charged state employees massive markups for oncology medicines. According to the report, North Carolina 340B hospitals charged state employees, on average, a price markup of 5.4 times the hospitals’ discounted 340B acquisition cost for outpatient infused cancer medicines. This resulted in billing the North Carolina State Health Plan for Teachers and State Employees a price markup that was 84.8% higher than North Carolina hospitals outside of the 340B program.^v

Use of 340B displaces manufacturer rebates on the same drug, raising costs for everyone. This displacement caused a combined \$5.2 billion increase in health care costs for self-insured employers and workers in 2021. That is because drug costs were estimated to be 4.2% higher under the 340B program than they otherwise would have been had rebates been paid to PBMs and employers.^{vi} Based on additional analysis by IQVIA, employers in Hawaii pay an estimated \$21.9 million more in health care costs due to foregone rebates as a result of the 340B program.^{viii} The same analysis by IQVIA showed that proposed contract pharmacy legislation in Hawaii is estimated to increase health care costs for employers by \$6.8 million and state and local governments by \$1 million due to additional foregone rebates.^{ix}

There is little evidence to suggest that patients have benefited from contract pharmacy growth.

Since 2010, the number of contracts with pharmacies has grown by more than 8,000%, with roughly 33,000 pharmacies participating in the program today. Because the program has no transparency or guardrails on how hospitals and clinics use 340B profits, the money often is not going to help low-income and uninsured patients access medicines. An analysis of contract pharmacy claims for brand medicines only found evidence that patients were directly receiving a discount for 1.4% of prescriptions eligible for 340B.^{vi} Additional studies have found that 65% of the roughly 3,000 hospitals that participate in the 340B program are not located in medically underserved areas,^{vii} and in Hawaii, only 30% of contract pharmacies are located in medically underserved areas. Research has also found that more than 77% of 340B hospitals provide less charity care than the national average for all hospitals, and they often spend less on charity care and community investment than the estimated value of their tax breaks as nonprofits. In fact, 93% of 340B hospitals in Hawaii are below the national average for charity care levels.

HB 712, HD2 will line the pockets of pharmacy benefit managers (PBMs), pharmacy chains, and large hospital systems.

Many contract pharmacies charge a patient based on a drug's full retail price because they are not required to share any of the discount with those in need.^{viii} Big-box retailers such as Walgreens, CVS Health, and Walmart are major participants in the 340B program through contract pharmacy arrangements. Because of vertical integration in the supply chain, PBMs now own the vast majority of pharmacies, meaning they also make a profit from contract pharmacy arrangements. In fact, the five largest for-profit pharmacy chains comprise 60 percent of 340B contract pharmacies, but only 35 percent of all pharmacies nationwide.^{ix} 340B covered entities and their contract pharmacies generated an estimated \$13 billion in gross profits on 340B purchased medicines in 2018, which represents more than 25% of pharmacies' and providers' total profits from dispensing or administering brand medicines.^x Today, the program stands at \$66.3 billion, a 23% growth increase from the previous year.^{xi}

In 2023, the Minnesota Legislature passed legislation^{xii} that requires the Minnesota Department of Health (MDH) to collect and aggregate data from Minnesota providers that participate in the federal 340B program. The Minnesota 340B report provides further evidence that for-profit middlemen are profiting from the 340B program. Payments to contract pharmacies and third-party administrators (TPAs) were over \$120 million, representing approximately \$16 of every \$100 of gross 340B revenue generated paid to external parties. In fact, 10% of safety-net federal grantees reported a negative net 340B revenue due to payments made to middlemen. The top 10% of critical access hospitals and disease-specific grantees with the highest external operational costs lost at least half their gross 340B revenue to TPAs and contract pharmacies.^{xiii}

The Minnesota 340B report also sheds light on the massive profits 340B hospitals retain from the 340B program. Minnesota providers participating in the 340B program earned a collective net^{xiv} 340B revenue of at least \$630 million for the 2023 calendar year. Based on national data, MDH believes this figure may represent as little as half to one-third of the actual total 340B revenue for Minnesota providers due to lack of reporting from the covered entities for office administered drugs.^{xv} Most entities did not report data for office administered drugs, which are estimated to account for 80% of all 340B drug spending.^{xvi}

The state's largest 340B hospitals benefitted most from the 340B program, accounting for 13% of reporting entities but representing 80%—more than \$500 million—of net 340B revenue.^{xvii}

The 340B program is a comprehensive federal program that is governed exclusively by federal law. States do not have the authority to create new requirements that are not in the federal statute or that conflict with the statute. Whether manufacturers can be required to ship drugs to contract pharmacies for 340B providers is currently being litigated in multiple federal courts across the country.

PhRMA respectfully opposes the provisions outlined above and appreciates your consideration prior to advancing HB 712, HD2.

The Pharmaceutical Research and Manufacturers of America (PhRMA) represents the country's leading innovative biopharmaceutical research companies, which are laser focused on developing innovative medicines that transform lives and create a healthier world. Together, we are fighting for solutions to ensure patients can access and afford medicines that prevent, treat and cure disease. Over the last decade, PhRMA member companies have invested more than \$800 billion in the search for new treatments and cures, and they support nearly five million jobs in the United States.

ⁱ Hospital Prices for Physician-Administered Drugs for Patients with Private Insurance, New England Journal of Medicine, 390, 4, (338-335), (2024). DOI: [10.1056/NEJMs2306609](https://doi.org/10.1056/NEJMs2306609)

ⁱⁱ Hunter MT, et al. "Analysis of 2020 Commercial Outpatient Drug Spend at 340B Participating Hospitals." Milliman, September 2022. https://www.milliman.com/-/media/milliman/pdfs/2022-articles/9-13-22_phrma-340b-commercial-analysis.ashx

ⁱⁱⁱ Sun C, Zeng S, Martin R. "The Cost of the 340B Program Part 1: Self-Insured Employers." IQVIA, March 2024. <https://www.iqvia.com/-/media/iqvia/pdfs/us/white-paper/iqvia-cost-of-340b-part-1-white-paper-2024.pdf>

^{iv} Sun C, Zeng S, Martin R. "The Cost of the 340B Program Part 2: 340B Revenue Sharing." IQVIA, March 2024. <https://www.iqvia.com/-/media/iqvia/pdfs/us/white-paper/2024/the-cost-of-the-340b-program-part-2-340b-revenue-sharing.pdf>

^v North Carolina State Treasurer. "Overcharged: State Employees, Cancer Drugs, and the 340B Drug Pricing Program." May 2024. Access: <https://www.shpnc.org/documents/overcharged-state-employees-cancer-drugs-and-340b-drug-price-program/download?attachment>

^{vi} IQVIA. "Are Discounts in the 340B Drug Discount Program Being Shared with Patients at Contract Pharmacies." Oct. 10, 2022. Access: <https://www.iqvia.com/locations/united-states/library/fact-sheets/are-discounts-in-the-340b-drug-discount-program-being-shared-with-patients-at-contract-pharmacies>.

^{vii} Alliance for Integrity & Reform. "340B – A Missed Opportunity to Address Those That Are Medically Underserved." 2023 Update. Access: https://340breform.org/wp-content/uploads/2023/07/340B_MUA_July23-4.pdf.

^{viii} Conti, Rena M., and Peter B. Bach. "Cost consequences of the 340B drug discount program." *Jama* 309.19 (2013): 1995-1996.

^{ix} Government Accountability Office, "Drug Discount Program: Federal Oversight of Compliance at 340B Contract Pharmacies Needs Improvement," GAO-18-480, June 2018.

^x Berkeley Research Group. For-Profit Pharmacy Participation in the 340B Program. October 2020.

^{xi} Fein, Adam. The 340B Program Reached \$66 Billion in 2023—Up 23% vs. 2022: Analyzing the Numbers and HRSA's Curious Actions. Drug Channels. Oct. 22, 2024.

<https://www.drugchannels.net/2024/10/the-340b-program-reached-66-billion-in.html>

^{xii} 2023 Minnesota Statutes, Section 62J.312

^{xiii} Minnesota Department of Public Health, “340B Covered Entity Report,” Nov. 25, 2024.

<https://www.health.state.mn.us/data/340b/docs/2024report.pdf>

^{xiv} MDH defines “net” as the difference between the payments received for discounted drugs (\$1.5 billion), and the cost of acquiring those drugs (\$734 million) plus payments to external administrators (\$120 million). (see p.7)

^{xv} The Minnesota Legislature amended the transparency law in 2024 to explicitly require covered entities to report data for office-administered drugs. See 2024 Minnesota Statutes, Section 62J.461

^{xvi} Spending in the 340B Drug Pricing Program, 2010 to 2021 (<https://www.cbo.gov/system/files/2024-06/60339-340B-DrugPricing-Program.pdf>)

^{xvii} Minnesota Department of Public Health, “340B Covered Entity Report,” Nov. 25, 2024.

<https://www.health.state.mn.us/data/340b/docs/2024report.pdf>

PROPOSED AMENDMENT TO House Bill No. 712, HD2

SECTION 1. House Bill No. 712, HD2 is amended by amending section 2, page 4, line 15 through page 5, line 5, to read as follows:

"(a) Effective January 1, 2030, n[~~N~~]o manufacturer, or any agent or affiliate of a manufacturer, shall deny, restrict, or prohibit, either directly or indirectly, the acquisition of a 340B drug by, or shipping or delivery of a 340B drug to, a pharmacy that is under contract with a 340B covered entity and is authorized under the contract to receive and dispense 340B drugs on behalf of the covered entity unless the receipt is prohibited by the United States Department of Health and Human Services.

(b) Nothing in this section shall deny, restrict, or prohibit a manufacturer from requiring a 340B covered entity to provide claims information for the manufacturer's 340B drugs.

~~[(b)]~~ (c) No person other than a 340B covered entity or the attorney general may bring a civil action based upon a violation of section."

SECTION 2. House Bill No. 712, HD2 is amended by adding a new section as follows:

"§ -6 - Covered entity transparency to increase accountability to safeguard benefit.

(a) For the purposes of this section:

- (1) "340B drug" means a covered outpatient drug, as defined in 42 United States code section 1396r-8(k)(2), that has been subject to any offer for reduced prices by a manufacturer pursuant to 42 United States code section 256b(a)(1), and is purchased by a covered entity.
- (2) "340B profits" means the difference between (i) aggregated payments received from insurers, third-party payers, or self-paying patients for all 340B drugs, and (ii) aggregated acquisition cost paid for all 340B drugs.
- (3) "340B program" means the federal drug pricing program described in 42 United States code section 256b.
- (4) "Charity care" has the same meaning as ascribed to that term in line 23 of worksheet S-10 to the Medicare cost report or in any successor form.

- (5) "Contract pharmacy" means a pharmacy with which a covered entity has contracted to dispense 340B drugs on behalf of the covered entity to patients of the covered entity, whether distributed in person, via mail, or other means.
- (6) "Covered entity" has the same meaning as under 42 United States code section 256b(a)(4).
- (7) "Low-income patient" means a patient of the covered entity with a family income below 200 percent of the Federal Poverty Guidelines.
- (b) Beginning on July 1, 2026, and by July 1 each year thereafter, each covered entity shall report to the Department of Health with respect to the covered entity and separately for each offsite facility associated with the covered entity, the following information about the prior year, in a form and manner determined by the Department of Health:
 - (1) Delineated by form of insurance or third-party payor type, including but not limited to Medicaid, Medicare, commercial insurance, and uninsured:
 - i. Aggregated acquisition costs paid for all 340B drugs, i.e., the metric that was used to calculate 340B profits;
 - ii. Aggregated payments received from insurers or third-party payers for all 340B drugs, i.e., the metric that was used to calculate 340B profits;
 - iii. Total number of prescriptions and the percentage of the covered entity's prescriptions that were filled with 340B drugs; and
 - iv. Percentage of patients served by a sliding fee scale for 340B drugs at the point of sale for low-income patients;
 - (2) Total operating costs of the covered entity, and itemized costs for:
 - i. Implementing direct pass through of 340B profits to patients in the form of lower cost

sharing for 340B drugs at the point of dispensing or administration;

ii. Implementing a sliding fee scale for 340B drugs at the point of sale for low-income patients; and

iii. Charity care;

(3) Total payments made to:

i. Contract pharmacies for 340B program-related services and other functions;

ii. Third-party administrators for managing any components of the covered entity's 340B program; and

iii. Any other third parties in connection with 340B program-related compliance, legal, educational, and/or administrative costs;

(4) Total number of contract pharmacies, and

i. Number of contract pharmacies located out-of-state and the states in which out-of-state contract pharmacies are located;

ii. Total number of prescriptions and the percentage of the covered entity's prescriptions that were filled at contract pharmacies, delineated by in-state and out-of-state contract pharmacies;

iii. Total remuneration paid to or retained by contract pharmacies or their affiliates for any 340B program-related services performed on behalf of the covered entity; and

iv. The percentage change in subsection (b)(4)(iii) of this section compared to the prior year.

(c) An officer of the covered entity shall certify the completeness and accuracy of the report submitted pursuant to subsection (b) of this section.

(d) The Department of Health shall use the information described in subsection (b) of this section to prepare a report detailing aggregate information received from

the covered entity, including 340B program revenue across all covered entities in the state. The Department of Health shall submit this report to the legislature by October 1, 2026. The Department of Health shall post the report submitted to the legislature and all reports submitted by covered entities pursuant to this section on a publicly accessible website."



**WAIANAE COAST
COMPREHENSIVE
HEALTH CENTER**

Wednesday, March 19, 2025 at 9:30 AM
State Capitol, Conference Room 229 & Videoconference

**SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES &
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

To: Chair Joy A. San Buenaventura
Vice Chair Henry J.C. Aquino

Chair Jarrett Keohokalole
Vice Chair Carol Fukunaga

From: Ian Ross
Public Affairs Director
ianross@wcchc.com | 808-652-3380

RE: TESTIMONY IN SUPPORT OF HOUSE BILL 712 HD2 - RELATING TO HEALTH

Aloha Chair San Buenaventura, Chair Jarrett Keohokalole, Vice Chairs, and Members of the Committees,

I am submitting this testimony on behalf of the Waianae Coast Comprehensive Health Center (WCCHC) in **support of House Bill 712 HD2**, which protects the 340B Drug Pricing Program and ensures that covered entities, such as Federally Qualified Health Centers (FQHCs), can continue to access prescription medications at prices that support the communities we serve.

Waianae Coast Comprehensive Health Center (WCCHC) is a Federally Qualified Health Center dedicated to improving the health and well-being of the West O'ahu community through accessible and affordable medical and traditional healing services, including outreach to people experiencing homelessness, crucial for our community's wellbeing. With 52 years of service, WCCHC remains committed to providing comprehensive healthcare by addressing social determinants of health. The 340B Drug Pricing Program helps us to fulfill this mission.

The 340B program allows WCCHC to purchase medications at significantly reduced costs. These savings fund critical healthcare services that otherwise would not be financially sustainable. Through 340B, WCCHC is able to expand access to chronic disease management, social services, community outreach, and transportation assistance to help patients reach the care they need.

In recent years, pharmaceutical industry restrictions have increasingly limited the ability of FQHCs to fully participate in the 340B program. These restrictions have led to millions of dollars in lost savings, which in turn jeopardize essential healthcare services. Without action, community health centers will be forced to scale back critical programs, ultimately making healthcare less accessible.

House Bill 712 protects FQHCs from being unfairly limited access to 340B pricing and that covered entities can continue using contract pharmacies to serve their patients. **We humbly ask the Committees to pass House Bill 712 HD2** to safeguard the 340B program, which remains a vital tool in advancing health equity and ensuring that underserved communities receive the care they need.



Hawaii Legislature
House Committee on Health and Human Services
415 South Beretania St.
Honolulu, HI 96813

March 17, 2025

Re: Opposition to HB 712

Dear Committee Members,

On behalf of the Infusion Access Foundation, I am writing to express our concerns regarding HB 712 and its potential impact on patient access to critical infusion therapies in Hawaii. While we appreciate the legislature's commitment to addressing healthcare access and affordability, we urge careful consideration of expanding the 340B Drug Pricing Program.

The 340B Drug Pricing Program was originally created to improve medication affordability for underserved patients by allowing eligible healthcare entities to purchase drugs at a discount. However, the program has deviated significantly from its intended purpose. Instead of ensuring that savings benefit patients, large tax-exempt hospitals, private equity-backed organizations, and contract pharmacies have exploited regulatory loopholes to generate substantial profits, often at the expense of the very patients the program was designed to help.

Studies show that only 35% of 340B hospitals and 23% of 340B contract pharmacies are actually located in medically underserved areas. Meanwhile, profit margins for 340B contract pharmacies are 3.3 times higher than independent pharmacies, and drug price markups at 340B hospitals are 6.6 times higher than at independent clinics. These discrepancies indicate a failure to reinvest savings into patient care, leaving many vulnerable populations struggling with high out-of-pocket costs and limited access to affordable treatment.¹

To ensure that the 340B program serves its original mission, reforms must prioritize transparency, accountability, and equity, including requiring 340B entities to demonstrate how program savings directly benefit underserved patients. Expanding or modifying the 340B program without addressing these fundamental issues risks exacerbating inefficiencies and worsening healthcare disparities.

We strongly encourage Hawaii lawmakers to take a balanced approach to HB 712, one

¹ AIR340B, Overview: <https://340breform.org/overview/>



Infusion Access Foundation

that avoids expanding the 340B program in its current state and ensures that any cost-containment measures do not inadvertently reduce access to essential infusion therapies. The Infusion Access Foundation stands ready to collaborate with policymakers to develop solutions that improve affordability without sacrificing patient access.

Thank you for your time and consideration. If you have any questions or would like to discuss these concerns further, please do not hesitate to reach out.

Sincerely,

Alicia Barron, LGSW
Executive Director
Infusion Access Foundation



**Testimony to the Senate Joint Committee on Health and Human Services and
Commerce and Consumer Protection
Wednesday, March 19, 2025; 8:30 a.m.
State Capitol, Conference Room 229
Via Videoconference**

RE: HOUSE BILL NO. 0712, HOUSE DRAFT 2, RELATING TO HEALTH.

Chair San Buenaventura, Chair Keohokalole, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** House Bill No. 0712, House Draft 2, RELATING TO HEALTH.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

The measure, as received by your Committee, would preserve the integrity of the 340B Drug Pricing Program by prohibiting drug manufacturers from restricting the use of contract pharmacies by any 340B-covered entity in the State.

This measure would take effect on July 1, 3000.

For more than thirty years, the 340B Program has provided critical resources that enable FQHCs and other program participants to deliver affordable and accessible health care services to the most underserved and vulnerable communities.

By law, FQHCs:

“ . . . must document that any non-grant funds generated from health center program project activities in excess of what is necessary to support the total health center project budget were utilized. . . to benefit the current or proposed patient population and were not utilized for purposes that are specifically prohibited by the health center program. . . ”
[See, HRSA, Health Center Program Compliance Manual, August 20, 2018, p. 63.]

Over the past few years, statutory ambiguities have allowed other parties to claim the savings that were intended to accrue to the patients of FQHCs and other 340B providers. Because of this, the HPCA believes that the 340B Program must be preserved to ensure stability for Hawaii's safety net providers and enable them to effectively care for patients that otherwise would not have access to affordable health care services and medications.

To alleviate a possible challenge on grounds that this bill conflicts with the requirements of Section 26H-6, Hawaii Revised Statutes, the HPCA recommends that language be inserted into the Standing Committee Report, to wit:

“ . . . Your Committee asserts that this measure in no way should be construed as regulation under Hawaii's professional and vocational licensing laws. Rather, this measure is intended to prohibit certain business activities that your Committee determines to be repugnant to the health, welfare, and safety of patients and the consuming public. . . . ”

Accordingly, the HPCA respectfully requests your favorable consideration of this measure.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.

To: The Honorable Joy A. San Buenavenutra, Chair
The Honorable Henry J. C. Aquino, Vice Chair
Senate Committee on Health and Human Services

The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
Senate Committee on Commerce and Consumer Protection

From: Paula Arcena, External Affairs Vice President
Mike Nguyen, Director of Public Policy
Sarielyn Curtis, External Affairs Specialist

Hearing: Wednesday, March 19, 2025, 9:30 AM, Conference Room 229

RE: **HB712 HD2 Relating to Health**

AlohaCare appreciates the opportunity to provide testimony in **support** of **HB712 HD2**. This measure prohibits drug manufacturers from denying, restricting, or prohibiting the acquisition, shipping, or delivery of a 340B drug to pharmacies contracted with 340B covered entities under the federal 340B Drug Pricing Program.

Founded in 1994 by Hawai‘i’s community health centers, AlohaCare is a community-rooted, non-profit health plan serving over 70,000 Medicaid and dual-eligible health plan members on all islands. Approximately 37 percent of our members are keiki. We are Hawai‘i’s only health plan exclusively dedicated to serving Medicaid and Medicaid-Medicare dually-eligible beneficiaries. Our mission is to serve individuals and communities in the true spirit of aloha by ensuring and advocating for access to quality, whole-person care for all.

AlohaCare is committed to improving access to affordable, comprehensive care, especially for underserved and vulnerable low-income populations. This measure ensures that 340B covered entities—such as community health centers, Native Hawaiian Health Systems, hospitals, and other safety net providers—are able to stretch scarce financial resources as far as possible, reaching more eligible patients and providing more comprehensive services. Under the 340B program, drug manufacturers participating in Medicaid agree to provide outpatient drugs to covered entities at significantly reduced prices. These safety net providers reinvest 340B savings into a range of essential community benefits, such as social services, free wellness visits, vaccinations, health education classes, and workforce development programs.

It’s our understanding that in recent years, drug manufacturers have implemented restrictive policies that limit covered entities’ access 340B pricing through contract pharmacies, threatening access to affordable medications and other critical programs. This measure protects the integrity of the 340B program and ensures that patients continue to receive the care and medications they need.



Mahalo for this opportunity to testify in **support** of **HB712 HD2**.



Hawai'i Island Community Health Center

75-5751 Kuakini Highway Suite 203, Kailua Kona, HI 96740

(808) 326-5629

www.hicommunityhealthcenter.org

March 14, 2025

The Honorable Joy San Buenaventura
Chair, Senate District 2
Hawai'i State Capitol, Room 213
Phone: (808) 586-6890

The Honorable Henry Aquino
Vice Chair, Senate District 19
Hawai'i State Capitol, Room 204
Phone: (808) 586-6890

RE: CALL FOR SUPPORT OF HB-712, RELATING TO THE 340B DRUG PRICING PROGRAM

Dear Chair San Buenaventura & Vice Chair Aquino,

On behalf of the Hawai'i Island Community Health Center (HICHC), I am writing to express our strong support for HB-712, which seeks to prohibit drug manufacturers from restricting access to 340B medications at contract pharmacies. This critical legislation will help ensure that community health centers, rural clinics, and other safety-net providers can continue to offer affordable medications and essential healthcare services to our most vulnerable patients.

In 2022, Bay Clinic and West Hawai'i Community Health Center, both non-profit Federally Qualified Health Centers, merged operations as Hawai'i Island Community Health Center. This bold move created an integrated system focused on quality care and the delivery comprehensive health services island wide. Our mission is to provide accessible, high-quality, patient-centered healthcare that is culturally responsive and advances health equity for all individuals on Hawai'i Island. Our vision is a healthier island community where everyone has the opportunity to thrive. We are guided by our core values of compassion, respect, humility, advocacy, and excellence in everything we do.

The 340B Drug Pricing Program is a vital tool that enables health centers like HICHC to stretch scarce federal resources, reinvest in patient care, and provide comprehensive services to those in need, regardless of their ability to pay. The savings from the 340B program allow us to offer a sliding fee discount on prescriptions, ensuring that patients can afford their medications. Last year, we leveraged the 340B Drug Pricing Program to save our patients over 1.4 million dollars in direct medication costs through our sliding fee discount program. Additionally, we provide clinical pharmacy services, dental care, behavioral health, enabling services, women's health services, medication mail order, medication delivery, durable medical equipment services, prior authorization processing, and prescription refills by protocol. These services are critical to ensuring that patients, especially those in rural and underserved communities, receive the care they need without financial barriers.

However, in recent years, drug manufacturers have implemented restrictive policies that severely limit our patient's ability to access 340B-priced medications through contract pharmacies. These restrictions disproportionately impact patients in rural and underserved communities, where contract pharmacies serve as an essential point of access for affordable medications. This is especially true in our health system as we have only one Entity-Owned Pharmacy to service the prescription needs of the 38,000 patients we serve. While it is true that patients can obtain medications from the pharmacy of their choice, 340B-priced medications, and the associated savings for uninsured and underinsured patients, can only be accessed at pharmacies affiliated with a covered entity, as described by the 340B statute.

Contract pharmacy restrictions also negatively impact the financial resources of the health center. As a result of these contract pharmacy restrictions, HICHC has experienced significant financial strain, forcing us to reassess the scope of critical services we provide. If these restrictions continue, the ability to sustain key programs, including those offered by our clinical pharmacy team, such as Hepatitis C treatment and anticoagulation services will be severely compromised. Hepatitis C treatment is essential for preventing liver disease and cancer in our community, while anticoagulation services are critical for patients managing conditions such as atrial fibrillation and clotting disorders. Without access to discounted 340B medications, the cost burden on our patients will increase, and reduced funding will limit our capacity to provide these lifesaving treatments.

By prohibiting these harmful restrictions, HB-712 will help protect the integrity of the 340B program and ensure that patients continue to receive the care and medications they need. We urge you and your colleagues to advance this bill to safeguard healthcare access for the residents of Hawai'i.

Thank you for your leadership and commitment to protecting healthcare access for our communities. We appreciate your consideration and support for this important legislation. Please feel free to contact us if you have any questions or if we can provide further information.

With Aloha,

A handwritten signature in black ink, appearing to read "Melni Bg", with a stylized flourish at the end.

Melissa Bumgardner, Pharm.D., BCPS,
Director of Pharmacy Services

HB-712-HD-2

Submitted on: 3/13/2025 2:22:14 PM

Testimony for HHS on 3/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jason Yaris	Individual	Support	Written Testimony Only

Comments:

Dear Chair San Buenaventura , Vice Chair Aquino and members of the HHS committee

Dear Chair Keohokalole, Vice Chair Fukunaga and members of the CPN committee

I support HB 712 HD2 . The 340B Drug Discount Program was established in 1992 to help safety-net providers such as critical access hospitals and federally qualified health centers stretch their scarce resources to serve the most vulnerable populations. The savings realized by these covered entities through the 340B program are required, by statute, to be reinvested back into the communities they serve by expanding patient access to services that would normally be unfunded. These services include such things as adult dental care, enabling services, clinical pharmacy programs, and affordable medication programs. Contract pharmacies serve as extensions of the covered entities, increasing patient access by reducing geographic and financial access barriers. Four out of ten health centers rely solely on contract pharmacies and nine out of ten health centers use contract pharmacies to meet their community’s medication access needs. Since 2020, drug manufacturers have begun restricting access to 340B priced medications at contract pharmacies such that 39 manufacturers now restrict shipments of their medications with limitations varying by covered entity type. This has resulted in dramatic decreases in the financial resources needed to support these otherwise unfunded patient access programs. Patient access to care and clinical outcomes suffer as a result.

HB-712-HD-2

Submitted on: 3/13/2025 8:57:14 PM

Testimony for HHS on 3/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Usman Ghani	Individual	Support	Written Testimony Only

Comments:

Dear Chair San Buenaventura , Vice Chair Aquino and members of the HHS committee

Dear Chair Keohokalole, Vice Chair Fukunaga and members of the CPN committee

I support HB 712 HD2 . The 340B Drug Discount Program was established in 1992 to help safety-net providers such as critical access hospitals and federally qualified health centers stretch their scarce resources to serve the most vulnerable populations. The savings realized by these covered entities through the 340B program are required, by statute, to be reinvested back into the communities they serve by expanding patient access to services that would normally be unfunded. These services include such things as adult dental care, enabling services, clinical pharmacy programs, and affordable medication programs. Contract pharmacies serve as extensions of the covered entities, increasing patient access by reducing geographic and financial access barriers. Four out of ten health centers rely solely on contract pharmacies and nine out of ten health centers use contract pharmacies to meet their community’s medication access needs. Since 2020, drug manufacturers have begun restricting access to 340B priced medications at contract pharmacies such that 39 manufacturers now restrict shipments of their medications with limitations varying by covered entity type. This has resulted in dramatic decreases in the financial resources needed to support these otherwise unfunded patient access programs. Patient access to care and clinical outcomes suffer as a result.

HB-712-HD-2

Submitted on: 3/13/2025 11:46:57 PM

Testimony for HHS on 3/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Aloha HHS and CPN Chairs, Vice Chairs, and Committee Members,

As a public health professional in Hawai'i, I write in **strong support for HB712 HD2**. This measure would reduce external interference from pharmaceutical companies on savings to healthcare providers in the state.

To ensure a healthy public and workforce, Hawai'i relies on safety-net providers such as critical access hospitals and federally qualified health centers to provide quality care for residents statewide, especially our rural and Neighbor Island communities. To do this, these organizations must stretch their scarce resources through programs such as 340B.

The savings realized by these covered entities through the 340B program are required, by statute, to be reinvested back into the communities they serve by expanding patient access to services that would normally be unfunded. These services include such things as adult dental care, enabling services, clinical pharmacy programs, and affordable medication programs.

Over 35 manufacturers now restrict shipments of their medications with varying limitations to local healthcare safety-net providers. This has resulted in dramatic decreases in the financial resources needed to support otherwise unfunded patient access programs. Patient access to care and clinical outcomes suffer as a result.

Please support this measure to ensure sustainable access to healthcare for all communities in Hawai'i.

Mahalo,

Thaddeus Pham (he/him)

Makiki, HI

HB-712-HD-2

Submitted on: 3/14/2025 4:25:53 PM

Testimony for HHS on 3/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Sylva	Individual	Support	Written Testimony Only

Comments:

I am reaching out to urge your support in advancing HB-712, prohibiting drug manufacturers from denying, restricting, or prohibiting the acquisition, shipping, or delivery of a 340B drug to pharmacies contracted with 340B covered entities under the federal 340B Drug Pricing Program. As the 340B Program Manager at Hawai'i Island Community Health Center, I see every day how the 340B Program enables community health centers and other safety-net providers to deliver affordable medications and essential healthcare services to underserved population. Thank you for your leadership and for protecting healthcare access.

HB-712-HD-2

Submitted on: 3/14/2025 3:17:08 PM

Testimony for HHS on 3/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Andrea Staley	Individual	Support	Written Testimony Only

Comments:

Dear Chair San Buenaventura, Vice Chair Aquino, and members of the HHS committee

Dear Chair Keohokalole, Vice Chair Fukunaga, and members of the CPN committee

I support HB 712 HD2. The 340B Drug Discount Program was established in 1992 to help safety-net providers such as critical access hospitals and federally qualified health centers stretch their scarce resources to serve the most vulnerable populations. The savings realized by these covered entities through the 340B program are required, by statute, to be reinvested back into the communities they serve by expanding patient access to services that would normally be unfunded. These services include such things as adult dental care, enabling services, clinical pharmacy programs, and affordable medication programs. Contract pharmacies serve as extensions of the covered entities, increasing patient access by reducing geographic and financial access barriers. Four out of ten health centers rely solely on contract pharmacies and nine out of ten health centers use contract pharmacies to meet their community's medication access needs. Since 2020, drug manufacturers have begun restricting access to 340B priced medications at contract pharmacies such that 39 manufacturers now restrict shipments of their medications with limitations varying by covered entity type. This has resulted in dramatic decreases in the financial resources needed to support these otherwise unfunded patient access programs. Patient access to care and clinical outcomes suffer as a result.

Mahalo for the opportunity to provide testimony.

HB-712-HD-2

Submitted on: 3/14/2025 9:22:51 AM

Testimony for HHS on 3/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ronald Taniguchi, Pharm.D., MBA	Individual	Support	Written Testimony Only

Comments:

I fully support HB712 HD2. Mahalo

LATE

HB-712-HD-2

Submitted on: 3/18/2025 2:56:02 PM
Testimony for HHS on 3/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Frank Schultz	Individual	Support	Written Testimony Only

Comments:

I support this initiative.