

**Testimony to the Michigan Legislature Regarding House Bill 5350**

**By William S. Smith, PhD**

**Senior Fellow and Director, Life Sciences Initiative**

**Pioneer Institute, Boston**

My apologies for my abbreviated testimony but I testified yesterday in Congress yesterday before the House Energy and Commerce committee on this same topic and then flew right here this morning. The 340B is a federal program and for the 340B program to see true reform and return to its original purpose, action must be taken at the federal level.

The 340B program began as a worthy and modest program to give additional financial resources to certain rural and urban institutions whose patient populations were composed of many low-income and uninsured citizens. Once hospitals learned that they could arbitrage the 340B discounts – meaning they can buy drugs at low prices and obtain generous reimbursement from commercial payers and Medicare at much higher prices, the program exploded in growth.

Another important reason for this growth is the explosion in the number of 340B contract pharmacies, which are the subject of this hearing. I have studied the 340B program for several years now, and I still have questions about 340B contract pharmacies. If legislators can answer these questions to their satisfaction, they may want to proceed to action on House Bill 5350. If they cannot answer these questions satisfactorily, they may wish to proceed with caution.

My first question is: why do 340 hospitals have so many contract pharmacies? Michigan's 340B hospitals contract with 1361 contract pharmacies with the University of Michigan Hospital alone

contracting with 516 pharmacies; Henry Ford Hospital contracting with 505, and William Beaumont Hospital contracting with 281.

My second related question is why are so many of these pharmacies outside of Michigan? 9% of 340B contract pharmacies, or 124, are outside Michigan with 18 in Florida, 11 in Texas, 7 in California and even one in Hawaii. Does House Bill 5350 require 340B sales to the pharmacy in Hawaii?

My third question is: why do 340B contract pharmacies withhold discounts from some uninsured patients. Surveys by the HHS Office of Inspector General (OIG) and the Government Accountability Office (GAO) indicated that between 30 and 40% of uninsured patients are not offered 340B discounts at 340B pharmacies and are asked to pay full price. Here is direct quote from an OIG report on 340B: “we found that some covered entities in our study do not offer the discounted 340B price to uninsured patients in their contract pharmacy arrangements.”

Lastly, it must be asked why is it unreasonable for pharmacies to disclose whether the 340B discounted medication was dispensed to a 340B eligible patient? Again, both the OIG and the GAO have documented that there is significant diversion of 340B drugs to patients who are not eligible for them and that is it not uncommon for Medicaid patients to receive 340B drugs, something that is a violation of federal law.

Finally, there is something very curious occurring with the 340B program and hospital charity care. In 2012, 340B sales at discounted prices totaled \$6.9 billion, and by 2022, discounted sales

totaled \$54 billion. During this same decade *when 340B revenues were exploding for hospitals*, the average amount of charity care given out by 340B hospitals collapsed, dropping from 4.11% of operating revenues in 2012 to 2.28% in 2022. During this period the amount of charity care given by Michigan hospitals was far below the national average, dropping from 1.77% of operating revenue in 2013 to .69% in 2022. Michigan is one of only a handful of states where charity care averages less than 1% of operating revenue for 340B hospitals. And some of these hospitals use aggressive debt collection. This is not healthcare equity.

Clearly, the program is not working the way Congress intended. The situation we find ourselves in now is that 340B revenue has become a general operating subsidy for many hospitals, not a program to help the poor and uninsured. Because it is now an operating subsidy, I would agree that cutting the program would have devastating consequences for many hospitals. However, the program clearly needs more transparency. In most states, non-profits must make certain filings with the state revenue agency. I would recommend Michigan should not pass this bill under consideration but instead require hospitals to file and disclose how much revenue they secure from 340B and exactly how they spend those funds. This would differentiate hospitals who spend generously on vulnerable populations and those hospitals who simply put 340B funding into their operating budgets.

Thank you for your attention.

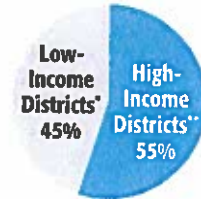
# 340B in Michigan

## Key Points

- ▶ Michigan's low-income taxpayers are required to utilize for-profit pharmacies in California.
- ▶ Pharmacy Benefit Management (PBM) owned for-profit contract pharmacies benefit from a federal program intended to support low-income Michigan taxpayers.
- ▶ More contract pharmacies intended to serve poor patients in Michigan are located in affluent neighborhoods.
- ▶ Michigan 340B hospitals (0.69%) provide less charity care than the national average (2.28%).

9.1% of 340B pharmacies supposedly serving poor patients in Michigan are located outside the state.

- Total number of contract pharmacies intended to serve low-income patients in Michigan – 1361
- Number of contract pharmacies intended to serve Michigan's low-income patients that are located outside of Michigan – 124



Over 50% of 340B pharmacies supposedly serving the poor are in affluent neighborhoods in Michigan.

- 13.4% of the population living in poverty

16.3% of 340B contract pharmacies for the Michigan hospitals, with the most contract pharmacies are based outside the state. Some of the pharmacies are in California.

Top 5 Hospitals in Michigan	# of 340B Contract Pharmacies	# of 340B Contract Pharmacies outside the State Lines	Farthest 340B Pharmacy Location Serving Michigan Patients
University of Michigan Hospitals and Health Centers	516	76 (15%)	California (2242 miles)
Henry Ford Hospital	505	66 (13%)	California (2242 miles)
William Beaumont Hos DBA Beaumont Hosp - Royal Oak	281	56 (20%)	California (2242 miles)
Botsford General Hosp Beaumont Hosp - Farmington Hills	189	44 (23%)	California (2242 miles)
Saint Mary's Health Care	167	29 (17%)	California (2242 miles)

\* Low-Income Districts – house districts where the percentage of the population living in poverty is above the average state poverty percentage  
 \*\* High-Income Districts – house districts where the percentage of the population living in poverty is below the average state poverty percentage

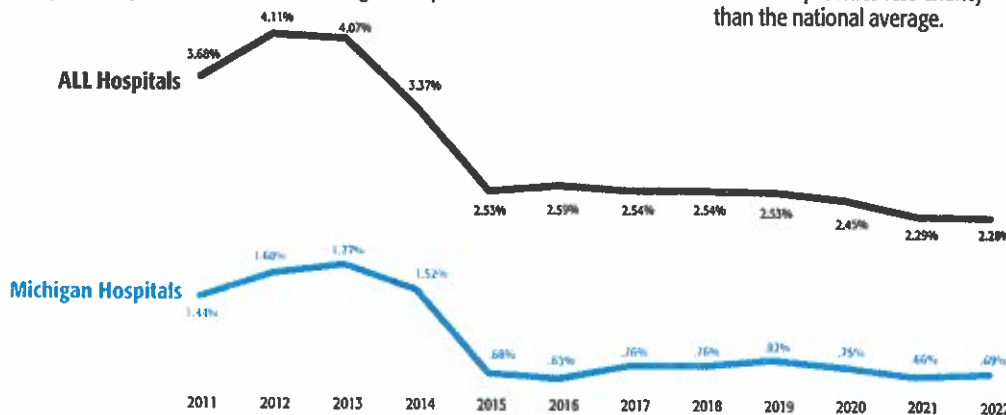
Top 340B contract pharmacies supposedly serving Michigan low-income patients are owned by for profit pharmacy benefit management (PBM) owned pharmacies and chain drug stores.

Top 5 340B Pharmacies with Most Contracts in Michigan	PBM Owned Pharmacy	Chain Pharmacy
Walgreens Specialty Pharmacy, LLC		✓
Caremark Michigan Specialty Pharmacy, LLC	✓ (Caremark/CVS Health)	
Optum Pharmacy 701, LLC	✓ (Optum/United)	
Diplomat Specialty Pharmacy	✓ (Optum/United)	
Meijer Pharmacy #464		✓

The top Michigan hospital with the highest operating expenses eligible for 340B discounts provides less charity than the national average.

Top Michigan 340B Hospital with The Highest Operating Expenses	Charity Care
University of Michigan Hospitals and Health Centers	0.8%

Average Charity Care Ratio - All vs. Michigan Hospitals



2022  
Total Cost of Charity Care  
**\$16,002,540,724**