



April 16, 2025

Chairwoman Donna Bailey and Chairwoman Kristi Mathieson
Committee on Health Coverage, Insurance, and Financial Services
Cross Building, Room 220
100 State House Station
Augusta, ME 04333

Re: Amgen LD 1018 Opposition Testimony

Dear Chairwoman Bailey, Chairwoman Mathieson and Members of the Health Coverage, Insurance and Financial Services Committee,

Legislative Document 1018 would mandate drug manufacturers facilitate delivery of deeply discounted 340B-priced products, intended to support care in underserved communities, to any contracted commercial pharmacy in an improper expansion of the federal 340B program. This bill contradicts federal court rulings, exacerbates program integrity concerns, and increases costs for patients, employers, and the State. For these reasons, **Amgen respectfully urges your "NO" VOTE on LD 1018.**

The 340B program was established in 1992 to help safety-net providers and their patients, but its expansion, particularly via significant growth in contract pharmacy arrangements, has greatly transformed the program. Instead of serving low-income and uninsured patients, large hospital systems and their for-profit pharmacy partners are exploiting the program's lack of oversight. For instance, a report by the North Carolina State Treasurer, found that North Carolina 340B hospitals charged state employees an average markup of 5.4 times the acquisition cost for cancer drugs.¹

Recent research published by IQVIA found that, in 2023, rebates lost to 340B discounts increased costs to workers and employers in Maine by \$54 million annually – with an additional \$9 million in costs to the State itself.² According to the study, **legislation broadly mandating the inclusion of contract pharmacies would increase these costs in the State by an additional \$20 million in costs to workers and employers and \$3 million to the government.** Nationally, it increased costs to employers by \$6.6B and state and

¹ North Carolina State Health Plan for Teachers and State Employees. Overcharged: State Employees, Cancer Drugs, and the 340B Drug Pricing Program (2024). <https://www.shpnc.org/documents/overcharged-state-employees-cancer-drugs-and-340b-drug-price-program/download?attachment>.

² IQVIA. The Cost of the 340B Program to States. February 2025. <https://www.iqvia.com/locations/united-states/library/white-papers/the-cost-of-the-340b-program-to-states>.

local governments by \$1B because 340B discounts displaced manufacturer rebates on the same drug.³

In recent years, investigative journalism by the Wall Street Journal^{4,5} and New York Times⁶ has exposed that a significant portion of 340B revenue is not reinvested into patient care, as the program intended, but is instead retained as additional revenue for hospitals and contract pharmacies. This exploitation calls into question whether 340B is fulfilling its purpose or simply enriching intermediaries at the expense of manufacturers, patients, and employers.

The LD 1018 contract pharmacy mandate proposal is also contrary to two recent federal Courts of Appeals rulings. In 2023, the U.S. Court of Appeals for the Third Circuit held that “section 340B [of the federal statute] does not require delivery to an unlimited number of contract pharmacies” and “Congress never said that drug makers must deliver discounted Section 340B drugs to an unlimited number of contract pharmacies.”⁷ In 2024, the U.S. Court of Appeals for the D.C. Circuit unequivocally reinforced this ruling.⁸ Thus, the 340B statute, which governs all aspects of participation in the program, does not require manufacturers to deliver discounted drugs to an unlimited number of contract pharmacies.

Further, Amgen believes LD 1018's contract pharmacy mandate is preempted by federal law. This mandate offends the Supremacy Clause because it would thrust Maine into the middle of a complex federal healthcare regime and meddle with the substantive rules and enforcement mechanisms that Congress created to govern it. It further attempts to regulate the price at which drug products are sold to pharmacies, not any aspect of delivery or safety that might normally be a state concern. Because federal law exclusively mandates which entities are entitled to the federal 340B discount, the bill's attempts to expand that universe are improper and preempted. This bill conflicts with these precedents and risks legal challenges.

Amgen urges your “NO” VOTE on Legislative Document 1018. Rather than reinforcing a flawed contract pharmacy model, any reforms of 340B policy should focus on ensuring 340B discounts directly benefit patients. The expansion of contract pharmacy mandates is preempted by federal law, contradicts federal rulings, increases costs, and undermines program integrity. Maine should not pursue legislation that ultimately increases the financial burden on patients, employers, and the State while benefiting intermediaries that operate beyond the original intent of the 340B program.

Sincerely,

/s/ Christopher Kent
Christopher J. Kent

³ Ibid.

⁴ *Wall Street Journal*. “Hospitals Often Don’t Help Needy Patients, Even Those Who Qualify.” November 2022.

⁵ *Wall Street Journal*. “Many Hospitals Get Big Drug Discounts. That Doesn’t Mean Markdowns for Patients.” December 2022.

⁶ *The New York Times*. “Profits over Patients: How a Hospital Chain Used a Poor Neighborhood to Turn Huge Profits.” September 2022.

⁷ *Sanofi Aventis U.S. LLC v. United States Dep’t of Health & Hum. Servs.*, 58 F.4th 696 (3d Cir. 2023).

⁸ *Novartis Pharms. Corp. v. Johnson*, Nos. 21-5299, 21-5304 (D.C. Cir. May 21, 2024).

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