

MAINE ASSOCIATION  
OF  
HEALTH PLANS

Testimony of Dan Demeritt – 4/26/23  
Joint Standing Committee on Health Coverage, Insurance, and Financial Services

**In Support of LD 1395**  
An Act to Increase Transparency Regarding Certain Drug Pricing Programs

Senator Bailey, Representative Perry, and Members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services:

My name is Dan Demeritt, the Executive Director of the Maine Association of Health Plans (MeAHP). Our plans include Anthem Blue Cross and Blue Shield, Cigna, CVS / Aetna, Community Health Options, Harvard Pilgrim Health Care, and United Health Care. Our private and non-profit insurance carriers provide or administer health insurance coverage to about 600,000 Maine people. Our mission as an association is to improve the health of Maine people by promoting affordable, safe, and coordinated healthcare.

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In a recent *New York Times* series, “Patients Over Profits,” reporters looked at different practices employed by not-for-profit hospitals that stray from their charitable mission to increase revenue at the expense of patients. One of those stories highlighted how a major non-profit hospital system used the poverty of patients served by the Richmond Community Hospital in Virginia to tap into the 340B program.

I share a portion of the reporting with my testimony. The full article from September 2022 can be found by following the link in the footnotes.<sup>1</sup>

This share is not to suggest malfeasance by Maine’s 32 non-profit hospitals or diminish how important reasonable margins are to sustaining healthcare services.<sup>2</sup> Nevertheless, this reporting demonstrates why transparency matters in a federal program established “to stretch scarce Federal Resources as far as possible, reaching more eligible patients and providing more comprehensive services.”<sup>3</sup>

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<sup>1</sup> <https://www.nytimes.com/2022/09/24/health/bon-secours-mercy-health-profit-poor-neighborhood.html>

<sup>2</sup> <https://www.kff.org/other/state-indicator/hospitals-by-ownership/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

<sup>3</sup> <https://www.hrsa.gov/opa#:~:text=The%20340B%20Program%20enables%20covered,entities%20at%20significantly%20reduced%20prices.>

The Health Resource and Service Administration (HRSA) requires that covered entities adhere to its program integrity guiding principles including maintaining accurate records and participating in audits by manufacturers or the federal government.<sup>4</sup>

Many providers also adhere to the American Hospital Association's (AHA) 340B Hospital Commitment to Good Stewardship Principles. The principles include communicating the program's value, disclosing the savings, and committing to internal controls.<sup>5</sup>

My testimony includes a Central Maine Medical Center posting based on the AHA's Good Stewardship Principles. Even so, CMMC's 2019 estimate of \$13.5 million in savings tells us little about how these savings were generated and how the dollars were invested.<sup>6</sup>

LD 1395 builds on the work hospitals must do to comply with HRSA guidance and AHA's Good Stewardship Principles. It creates transparency and provides Maine consumers, purchasers, policymakers, and payors with new insights into the costs of prescription drugs and the finances of Maine's non-profit hospitals.

We urge a vote of ought to pass.

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<sup>4</sup> <https://www.hrsa.gov/opa/program-integrity>

<sup>5</sup> <https://www.aha.org/initiativescampaigns/2018-09-13-340b-hospital-commitment-good-stewardship-principles>

<sup>6</sup> <https://www.cmhc.org/cmmc/services/pharmacy/federal-340b-drug-pricing-program/>

<https://www.nytimes.com/2022/09/24/health/bon-secours-mercy-health-profit-poor-neighborhood.html>

# How a Hospital Chain Used a Poor Neighborhood to Turn Huge Profits

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For 3406

*Credit...Illustration by Mel Haasch; Photograph by Carlos Bernate for The New York Times*

## Profits Over Patients

Bon Secours Mercy Health, a major nonprofit health system, used the poverty of Richmond Community Hospital's patients to tap into a lucrative federal drug program.

*Credit...Illustration by Mel Haasch; Photograph by Carlos Bernate for The New York Times*

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14 min read

RICHMOND, Va. — In late July, Norman Otey was rushed by ambulance to Richmond Community Hospital. The 63-year-old was doubled over in pain and babbling incoherently. Blood tests suggested septic shock, a grave emergency that required the resources and expertise of an intensive care unit.

But Richmond Community, a struggling hospital in a predominantly Black neighborhood, had closed its I.C.U. in 2017.

It took several hours for Mr. Otey to be transported to another hospital.  
Printout Skips to page 8.

# Pages 8-11

At the chain's St. Francis Medical Center, an Italianate-style compound in a suburb 18 miles from Community, golf carts shuttle patients from the lobby entrance, past a marble fountain, to their cars.

In December, Bon Secours kicked off a \$108 million construction project at St. Francis to expand its I.C.U. and maternity ward. Not long before that, Bon Secours broke ground on a free-standing emergency room that would be an extension of St. Francis in suburban Chesterfield County. The news release boasted that it would offer CT, M.R.I. and ultrasound imaging.

Dr. Samuel Hunter, 81, who worked for more than four decades as a pathologist at Richmond Community until he left in May, said the disparity reminded him of his childhood in segregated Florida, where Black children like him learned from textbooks that white students had already used.

"I know what it feels like to have secondhand things," he said.

## **A Lucrative Drug Program**

Image

*Credit...Sarabeth Mancy/The New York Times*

When Bon Secours bought Richmond Community, the hospital served predominantly poor patients who were either uninsured or covered through Medicaid, which reimburses hospitals at lower rates than private insurance does. But Bon Secours turned the hospital's poverty into an asset.

The organization seized on a federal program created in the 1990s to give a financial boost to nonprofit hospitals and clinics that serve low-income communities. **The program, called 340B** after the section of the federal law that authorized it, allows hospitals to buy drugs from manufacturers at a discount —

roughly half the average sales price. The hospitals are then allowed to charge patients' insurers a much higher price for the same drugs.

The theory behind the law was that nonprofit hospitals would invest the savings in their communities. **But the 340B program came with few rules. Hospitals did not have to disclose how much money they made from sales of the discounted drugs.** And they were not required to use the revenues to help the underserved patients who qualified them for the program in the first place.

In 2019, more than 2,500 nonprofit and government-owned hospitals participated in the program, or more than half of all hospitals in the country, according to the independent Medicare Payment Advisory Commission.

Starting in the mid-2000s, big hospital chains figured out how to supercharge the program. The basic idea: Build clinics in wealthier neighborhoods, where patients with generous private insurance could receive expensive drugs, but on paper make the clinics extensions of poor hospitals to take advantage of 340B.

Since 2013, Bon Secours has opened nine such satellite clinics in wealthier parts of the Richmond area, according to federal records. Even though the outposts are miles from Richmond Community, they are legally structured as subsidiaries of the hospital, which entitles them to buy drugs at the discounted rate.

The Bon Secours Cancer Institute at St. Mary's, for example, administers cancer drugs to patients in an office suite on the tree-lined campus of St. Mary's Hospital.

Thanks to 340B, **Richmond Community Hospital can buy a vial of Keytruda, a cancer drug, at the discounted price of \$3,444,** according to an estimate by Sara Tabatabai, a former researcher at Memorial Sloan Kettering Cancer Center.

But the hospital **charges the private insurer Blue Cross Blue Shield more than**

seven times that price — \$25,425, according to a price list that hospitals are required to publish. That is nearly \$22,000 profit on a single vial. Adults need two vials per treatment course.

Image

*Credit...Sarabeth Maney/The New York Times*

The way hospitals use the 340B program is “nakedly capitalizing on programs that are intended to help poor people,” said Dr. Peter B. Bach, a biotechnology executive and researcher whose work has shown that hospitals participating in the 340B program have increasingly opened clinics in wealthier areas since the mid-2000s.

Bon Secours did not disclose how much money it earned through the program, but said the funds “help us address health disparities while providing community support and outreach.” It said it had provided nearly \$18 million in free care to poor patients at Richmond Community Hospital since 2018. In 2020, the hospital provided \$3.8 million in free care to low-income patients, or about 2.6 percent of its total expenses, slightly above the national average.

The federal agency that oversees the 340B program, the Health Resources and Services Administration, said that hospitals and clinics were regularly audited, and that the Biden administration had proposed requiring them to report how they spent profits generated through the program. Such a change would require congressional approval.

In 2020, the most recent year for which data is available, Richmond Community Hospital — including its satellite offices — had a profit margin of nearly 44 percent, the highest in the state, according to an analysis by Virginia Health Information, a nonprofit group that collects financial data from hospitals.

That year, the hospital brought in more than \$110 million in revenue, after

expenses and losses were deducted, according to Virginia Health Information. According to two former Bon Secours executives familiar with the hospital's financial operations, **the vast majority of Richmond Community's profit since 2013 has come from the 340B program.**

Bon Secours's other hospitals have not done as well. St. Mary's, considered the most prestigious Bon Secours facility in Richmond, brought in \$83 million in 2020.

## 'Unabashedly Profit-Oriented'

Image

*Credit...Sarabeth Mancy/The New York Times*

On a sunny October day in Richmond in 2012, two cheerleaders for Washington's National Football League team smiled for cameras as they gripped a large sign between them.

"Bon Secours Training Center," read the sign, which combined the Bon Secours fleur-de-lis logo with a bust of a Native American, the football team's logo at the time.

The team, Bon Secours and the State of Virginia were unveiling a major economic deal that would bring \$40 million to Richmond, add 200 jobs and keep the Washington team — now known as the Commanders — in the state for summer training.

The deal had three main parts. Bon Secours would get naming rights and help the team build a training camp and medical offices on a lot next to Richmond's science museum.

The city would lease Bon Secours a prime piece of real estate that the chain had



<https://www.cmhc.org/cmmc/services/pharmacy/federal-340b-drug-pricing-program/>

## Federal 340B Drug Pricing Program

The 340B is a program overseen by the Health Resources and Services Agency (HRSA), a division of the US Department of Health & Human Service. Under 340B, drug manufacturers who wish to participate in the Medicaid and Medicare Part B prescription coverage programs must offer a select list of drugs to qualified healthcare providers at a reduced price. The program, which is not subsidized by the federal government, is intended to allow providers to stretch scarce resources as far as possible to provide more care to patients.

Central Maine Healthcare (CMH) provides comprehensive, integrated healthcare services to a geographically dispersed population and qualifies for the 340B program enabling us to provide additional services to our community.

## What 340B Means to CMH and Our Community

FY19 Estimated Savings: \$13,540,116

Many healthcare services are only partially covered by insurance or not covered at all. Medicare and Maine Care reimburse at rates that are often far below the actual cost to provide care. Savings generated by the 340B drug program help CMH fill the reimbursement gaps from insurance and also supports CMH's \$5.2 Million of free care to needy community members annually.

## Examples of Programs Made Possible by 340B

- **Reduced prescription costs:** Our affiliated outpatient practice areas provide lower costs for eligible medications at CMMC's retail pharmacy and via mail order.



- **Rural Areas:** Bridgton and Rumford Hospitals provide full service chemotherapy and specialty infusion enabling patients to receive the care they need closer to home.
- **Central Maine Comprehensive Cancer Center:** Located at the Lewiston campus, our integrated, multi-disciplinary cancer program combines a full spectrum of services and medical specialists to diagnose and treat cancer holistically. 340B savings enable us to provide access to the most up to date drug regimens for every patient we see.
- **Diabetes & Endocrinology:** Working collaboratively with patients, our team of board-certified endocrinologists, certified diabetes educators, registered dietitians along with other specialists create a personalized care plan for each individual.

## Maintaining the 340B Program

CMMC adheres to the American Hospital Association's 340B Good Stewardship Principles. We have an internal 340B Oversight Committee comprised of key leadership members from across the healthcare system. The committee meets at least quarterly to conduct internal reviews to ensure our program meets the US Department of Health & Human Services HRSA program rules and provide guidance for our program's future direction.

## Do I Need to Do Anything to Benefit?

The 340B program is not a direct to consumer program. The benefits of the 340B program for our community, such as those listed above, automatically apply to CMH patients who receive their care across our system. You do not need to do anything to take advantage of these benefits.

If you value the types of services that this program makes available to our community by requiring drug manufactures to provide drugs to CMH at a discount, be sure to encourage your congressional representatives and senators to continue to support the federal 340B program as an essential part of maintaining the availability of exceptional care for Central, West, and Mid-Coast Maine.