HEALTHCARE
PURCHASER
ALLIANCE
OF MAINE

Testimony of Peter Hayes
to the 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

April 27, 2023

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

My name is Peter Hayes and I'm the President and CEO of the Healthcare Purchaser Alliance of Maine. The HPA is a nonprofit that represents the purchasers of healthcare in Maine. Our mission is to advance healthcare value and to support and incentivize high-quality, affordable care. We have over 60 members, including some of the largest public and private employers and health trusts in Maine. Collectively, our members spend over a billion dollars annually providing health care for nearly one quarter of the commercially insured population in the state. Over 22 percent of that total is spent on prescription drugs.

I am here today to testify in support of LD 1395, and the critical transparency that this legislation will create around the 340B program. The 340B program allows safety net hospitals and other entities serving low-income and other at-risk populations to purchase drugs at deep discounts—on average, about 35 percent below the average sales prices hospitals would otherwise pay,[1] and in some instances, for pennies. Such price breaks help these entities to cover the costs of serving low-income and other at-risk populations. But 340B entities also use these discounts to purchase drugs for their *commercially insured* patients, which they can then sell to those commercially insured patients at higher commercial prices. This can result in 340B entities pocketing a margin on drugs they provide to commercial patients.

For example, Humira is the #1 brand name drug by total spend across the HPA's book of business claims database of over 130,000 commercially-insured lives. That one drug accounts for over 10 percent of what our members spend on pharmacy overall. Under the 340B pricing formula, Humira is a penny drug, available at 1 cent per unit,[2] which means that hospitals are acquiring, ***for literally pennies,*** the drug that is costing Maine employers more than any other drug in the market. We're not benefiting from that 1 cent acquisition cost, as the average monthly cost for Humira is $6,922."[3] And it's not just employers who are paying these costs; employees' and dependents' copays and coinsurance are based on employers' purchase price, which may be significantly more than what the hospital paid for a drug.

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[1] Anna Wilde Matthews, Paul Overberg, Joseph Walker, and Tom McGinty, "Many hospitals get big drug discounts. That doesn't mean markdowns for patients," *The Wall Street Journal,* December 21, 2022. Available at: https://www.wsj.com/articles/340b-drug-discounts-hospitals-low-income-federal-program-11671553899.

[2] US Senate Committee on Finance Questions for the Record, "Drug Pricing in America: A Prescription for Change, Part II, Questions for: Richard A. Gonzalez (Chairman and Chief Executive Officer, AbbVie Inc.), February 26, 2019. Available at: https://www.finance.senate.gov/imo/media/doc/AbbVie%20Responses.pdf#page=18. As found in: Jupiter Life Science Consulting, "340B in 2020: Rampant Dysfunction, or a Crucial Support System?" June 2020. Available at: https://jupiterls.com/wp-content/uploads/2020/08/340b-in-2020-JLSC-white-paper-July-2020.pdf.

[3] Patrick Wingrove, "Abbvie's Humira gets a U.S. rival, but costs could stay high," Reuters, February 1, 2023. Available at: https://www.reuters.com/business/healthcare-pharmaceuticals/abbvies-humira-gets-us-rival-costs-could-stay-high-2023-01-31/.

Hospitals state that the revenue they generate from this process is used to support services to the low-income and at-risk patients they serve, consistent with the intent of the 340B program. But at least one study of 340B programs found that 340B hospitals are not necessarily providing more charity care to low-income patients than non-340B hospitals. Specifically, it found that 65 percent "of 340B hospitals provide less charity care than the national average for all hospitals, including for-profit hospitals."[4]

We have no way of knowing how Maine 340B hospitals leverage the program to support low-income populations, and how that compares to non-340B hospitals, because there's very little data about the program available to policy makers, or to the employers who purchase drugs from hospitals at rates above what the 340B hospitals paid for them. As the *Wall Street Journal* reported, "the program doesn't require participating hospitals to pass on drug discounts to patients, insurers or Medicare. There is no rule limiting how much they can charge for the drugs. They don't have to report how much they make from such sales, nor do they have to spend any profits to benefit low-income patients."[5]

We support LD 1395, as it would provide policy makers, employers, and other stakeholders with a better understanding of the revenue that 340B hospitals in Maine generate from prescription drug sales to Maine employers, and how those dollars are used to support low-income patients and other hospital operations. We believe this is particularly important given how rapidly the program is expanding. In fact, from 2014 to 2020, discounted drug purchases made under the 340B program ballooned, growing from $9 billion in 2014 to $38 billion in 2020. From 2019 to 2020 alone, those purchases increased by 27 percent.[6] A lot of this growth has been attributed to 2010 federal guidance that allows 340B hospitals to contract with retail pharmacies like CVS and Walgreens to provide drugs to their patients under the 340B discount program. In fact, approximately 30,000 pharmacy locations, or about half of the U.S. pharmacy industry, act as contract pharmacies for 340B hospitals and other 340B-eligible entities.[7]

Thank you for the opportunity to share our feedback on LD 1395, and many thanks to Senator Tipping for introducing this important legislation. I'd be happy to answer any questions and will be available for the work session.

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[4] Alliance for 340B Integrity & Reform, "Left Behind: An analysis of Charity Care Provided by Hospitals Enrolled in the 340B Drug Pricing Program," February 2022. Available at: https://340breform.org/wp-content/uploads/2022/11/AIR340B_LeftBehind_2022.pdf.

[5] Anna Wilde Matthews et al.

[6] A. Fein. "Exclusive: The 340B Program Soared to $38 Billion in 2020—Up 27% vs. 2019." Drug Channels. June 17, 2021. Available at: https://www.drugchannels.net/2021/09/exclusive-340b-program-soared-to-38.html#:~:text=Despite%20what%20you%20may%20have,of%20discounted%20purchases%20in%202014.

[7] Drug Channels, "Exclusive: 340B Continues Its Unbridled Takeover of Pharmacies and PBMs," June 15, 2021. Available at: https://www.drugchannels.net/2021/06/exclusive-340b-continues-its-unbridled.html.