Texas Association of Health Plans
1001 Congress Ave., Suite 300
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P: 512.476.2091
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April 9, 2025

Re: Opposition to HB 3265

Dear Chairman Dean and Members of the House Insurance Committee,

The Texas Association of Health Plans (TAHP) is the statewide organization representing health insurers, HMOs, Medicaid managed care organizations, and other related entities providing coverage for more than 20 million Texans. TAHP opposes House Bill 3265 because it removes critical transparency from the 340B drug program, pushes up costs for employers and families, and guarantees hospitals can reap enormous markups on discounted medications.

Hospitals often buy 340B specialty drugs at 50% below list price, yet charge employers drastically higher rates. For instance, a report showed that hospitals can acquire Darzalex for $76,320 through 340B pricing but then bill an employer-sponsored plan $290,016—a 280% markup. This aligns with broader findings that 340B hospitals are reimbursed by commercial insurers, on average, nearly three times what they pay for medicines and some hospitals charge nearly five times what they paid to acquire oncology medicines through 340B.[1,2] These practices inflate premiums and out-of-pocket expenses for Texans who see no share of the hospital's hefty discount.

HB 3265 blocks essential transparency by prohibiting health plans from requiring a simple billing "modifier" to identify 340B-discounted claims. That modifier is how health plans avoid "double discounting," since federal rules forbid health plans from collecting manufacturer rebates on already discounted 340B drugs. Medicaid also depends on this tool, because it likewise cannot collect rebates on 340B claims. Banning it hides which prescriptions are discounted, letting some hospitals expand 340B usage and shift all cost savings to themselves—all while employers and patients pay full, or even inflated, prices.

As hospitals expand 340B discounts to fully insured patients—beyond the program's original focus on the uninsured and Medicaid—they effectively keep that discount rather than sharing it with employers or patients. As a result, employers also lose out on drug rebate savings that normally help lower premiums, resulting in higher premiums. One analysis estimates the 340B

[1] Hospital Charges & Reimbursement for Medicines, The Moran Company, 2023.
[2] Examining 340B Hospital Price Transparency, Drug Profits, and Incentives; Community Oncology Alliance, 2022.

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program caused a combined $7.8 billion increase in costs for self-insured and fully insured employers and workers in 2021.[3]

Hospitals will argue that they utilize the 340B savings to provide additional community benefit; however, several studies show that this is simply not true. More importantly, it is unfair to expect that private employers and privately insured families should cover the cost of hospitals' unaccountable and unsubstantiated claims of providing community benefit. Researchers have been flagging the problem for years.

A 2018 study in the New England Journal of Medicine found that "Financial gains for hospitals have not been associated with clear evidence of expanded care or lower mortality among low-income patients."[4] Another study found that 65% of 340B hospitals provide less charity care than the national average for all short-term acute care hospitals, including for-profit hospitals.[5] A third study "did not find evidence that hospitals increased provision of uncompensated care after entry into the 340B program differentially more than hospitals that never entered or had not yet entered the program."[6]

A report by the Community Oncology Alliance further explains the harms of 340B abuse: "One community oncology clinic has been desperately fighting for its existence against a local 340B hospital system. This hospital is one of several oncology units located in wealthy, well-insured neighborhoods—all of which serve as satellite cancer centers of a single downtown hospital that has 340B certification due to the inner city's indigent population."[7]

This bill would allow hospitals to further expand 340B, letting them hide which drugs are dispensed under 340B and retain all the discount while charging excessive rates for drugs, leaving employers and patients to pick up the tab. The 340B program was never meant to be a profit-generating scheme that increases premiums and out-of-pocket costs for privately insured Texans. In fact, 340B hospitals have been shown to mark up infusion drugs by as much as 6.59 times compared to their discounted acquisition cost.[8]

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[3] How The 340B Program Impacts Federal & State Tax Liability, Magnolia Market Access Report.
[4] Consequences of the 340B Drug Pricing Program, NEJM, 2018.
[5] An Analysis of Charity Care Provided by Hospitals Enrolled in the 340B Drug Pricing Program, 2022.
[6] 340B Drug Pricing Program and Hospital Provision of Uncompensated Care, AJMC, 2021.
[7] How Abuse of the 340B Program is Hurting Patients, Community Oncology Alliance, 2017.
[8] Hospital Prices for Physician-Administered Drugs for Patients with Private Insurance, NEJM, 2024.

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HB 3265 forces health plans to reimburse 340B drugs as if they were acquired at full price. Employers and patients see no savings from the hospital's heavily discounted purchase—leaving premiums and out-of-pocket expenses to climb while the hospital pockets the difference.

HB 3265 also restricts health plans' ability to direct patients to more affordable options. In many cases, insurers lower costs by sourcing clinically administered specialty drugs through in-network specialty pharmacies at prices closer to actual acquisition costs. This legislation would ban or severely hamper such strategies, leaving payers and patients on the hook for hospitals excessively pricing these medications.

For these reasons, we respectfully ask you to oppose HB 3265. By preserving transparency tools like billing modifiers, allowing reimbursement that reflects real acquisition costs, and retaining plan flexibility to source lower-priced specialty drugs, Texas can keep coverage affordable for employers, families, and vital state programs.

Sincerely,

M. Blake Hutson

Blake Hutson
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