

**In Depth**

# **340B Crisis:**

## **Vulnerable Kansans at Risk of Losing Access to Life-Saving Prescriptions**



**Kansas Hospital  
ASSOCIATION**

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## Summary

Thousands of Kansans depend on a pharmaceutical program called the 340B Drug Program to receive life-saving prescription medications at an affordable price. Hospitals use this program to treat uninsured patients with chronic and life-threatening conditions.

Pharmaceutical companies are attempting to undermine the program by refusing to honor 340B pricing, refusing shipments to contracted pharmacies and imposing arbitrary reporting requirements.

This is an in-depth look at the relationship Kansas residents and hospitals have with the 340B program. It also illuminates how the pharmaceutical industry is attempting to handicap this program and details legislation other states have passed to ensure affordable medications for their most vulnerable citizens.

We hope you find it informative as we advocate for Kansans.

## Contact



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# 340B Key

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# Messaging

## **What's changing?**

Pharmacy benefit managers are changing the game for hospitals and federally qualified health centers to cut into 340B savings while producing record profits for investors.

## **Why is this happening?**

Most of the pharmacy benefit managers are publicly-traded companies that have consolidated to the point where there are very few competing PBMs; thereby, eliminating price transparency in the market. Aggressive tactics to use 340B dollars to bolster out-of-state corporate profits require attention to sustain the program's integrity.

## **Why we need a solution.**

Hospitals and health clinics cannot sustain the same level of service for the most vulnerable patients if the changes made by pharmacy benefit managers continue.

**We ask the state to level the playing field for small Critical Access Hospitals and federally qualified health centers who are negotiating with large out-of-state PBMs taking advantage of the lack of oversight.**

Irreparable harm will be suffered by Kansas residents if the program is not protected. This harm may occur in the form of reduced access to affordable medications, primary care services and unreimbursed health care programs like diabetic education, behavioral health and transportation. There also may be loss of services and less access to critical care in low income areas that do not have the economic resources to sustain services made possible by the program.



# 340B Hospital

## Impact

### Who is hurt by the changes being made by pharmacy benefit managers?

Patients, particularly those in rural parts of the state, are ultimately the ones losing their ability to access services and low-cost prescription medications.

The **risks and potential injury of the destabilization of the 340B program is heavily weighted toward Kansans, patients and businesses**, while rewards will be reaped by multi-million/billion dollar, out-of-state corporations.



**85 hospitals** in  
Kansas are  
**340B hospitals**  
see list on pages 12-13

# 340B Savings

## Utilized

The Kansas Hospital Association reached out to members to discover how the 340B Drug Program savings are used in their communities. Here is a sampling of what they reported.



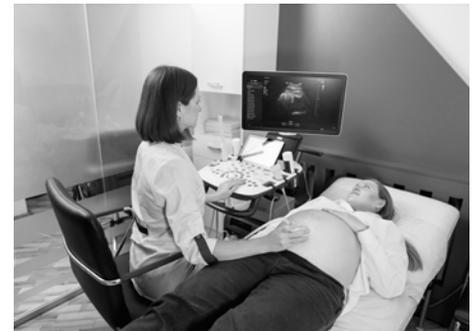
### Prescription Medications for Chronic Conditions

340B allows our hospital to provide prescription assistance to help patients pay for life-saving medications such as insulin and inhalers.



### Fewer Emergency Room Visits

340B reduces emergency room visits because patients are able to receive the medications they need in a clinic setting at a low cost helping manage their chronic conditions.



### Expansion of Services

340B program savings allow hospitals to fund services such as public transportation and independent living apartments. It also supports the addition of new services such as urgent care and ultrasound.



### Community Health Programs

340B provides an exercise program for elderly adults who need additional monitoring outside of the health and wellness center.



### Mental Health Services

The 340B program funds three social workers to coordinate care across facilities, clinics and the hospital.



### Expanded Rural Care

The 340B savings allow us to provide full time medical clinics in four communities with populations under 1,000.

# Purpose and

# History

## What is the purpose of the 340B program?

According to Health Resources and Services Administration, the 340B Drug Pricing Program allows certain providers, who are not-for-profit entities serving lower income populations, to stretch scarce resources as far as possible to provide better care to more patients.

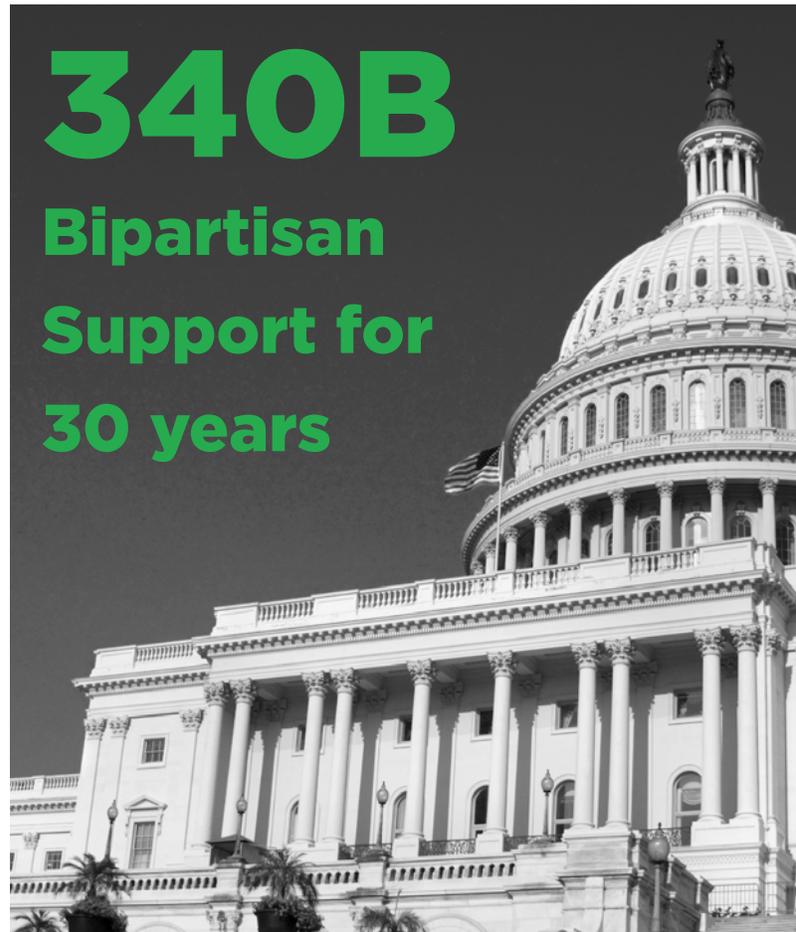
## What is the program's history?

The program was created in 1992, under the President George H.W. Bush administration.

The 340B Drug Pricing Program has received bi-partisan support for nearly 30 years and most recently came under attack by the pharmaceutical industry in fall 2020. The strategy of discriminatory pharmacy benefit manager pricing can be addressed and prevented at the state level through PBM regulation. This action also facilitates discussions at the federal level where broader reforms may be passed collaboratively.

# Kansans

# Take Action



## How can Kansas address the 340B crisis?

While the state cannot change the constructs of the federal program, **Kansas lawmakers and regulators have the authority to set business practices for the industry in Kansas.**

Per a [media release](#) from Kansas Attorney General Derek Schmidt. "It is vitally important that states are not prevented from improving access to affordable prescription drugs - particularly in rural communities in states like ours."

# Actions by Other States

As of July 2021, 14 states have taken action to protect 340B covered entities.

**Arkansas: HB 1881 (Passed in April 2021)**

Prohibits discriminatory contracting and practices that “transfer the benefit of 340B savings away from the 340B provider.”

The legislation seeks to prohibit drug manufacturers from refusing to offer 340B drug prices to certain pharmacies and gives patients the right to use the pharmacy of their choice.

**Georgia: SB 313 (Signed August 2021)**

Pharmacy benefit managers shall not discriminate in reimbursement, assess any fees or exclude a pharmacy from the network on the basis that the pharmacy dispenses drugs through the 340B program. Prohibits only the use of out-of-state mail order pharmacies and requires PBMs to pass savings onto health care plans.

**Indiana: House Act 1405 (April 2021 Enactment)**

Prohibits pharmacy benefit managers from reimbursing for 340B drugs at a level that diminishes the 340B benefit, assessing additional fees or excluding pharmacies from preferred networks based on 340B status.

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**Ohio: Senate Bill 263 (Effective April 2021)**

Private payers, pharmacies and pharmacy benefit managers cannot pick-pocket from 340B providers or impose additional fees or requirements on 340B providers.

**Kentucky: Senate Bill 50 (March 2020 Enactment)**

Prohibits pharmacy benefit managers from discriminating against 340B providers.

**North Dakota: House Bill 1492 (Passed April 2021)**

Dictates that pharmacy benefit managers may not reimburse less for drugs purchased through 340B and prohibits discrimination or interference with 340B providers or their pharmacies.

**Minnesota: Senate Bill 278 (May 2019)**

A pharmacy benefit manager may not reimburse an entity or pharmacy under contract differently than other similar pharmacies.

Continued on page 7.

# Actions by Other States

## **Montana: Senate Bill 335 (Passed April 2019)**

A pharmacy benefit manager cannot pay less than the state-surveyed average drug acquisition cost for 340B.

## **South Carolina: Senate Bill 359 (Enacted January 2021)**

Prohibits pharmacy benefit manager from paying retail pharmacies less than PBM affiliates.

## **South Dakota: House Bill 1137 (Enacted March 2019)**

No pharmacy benefit manager can discriminate against a pharmacy participating in a plan as an authorized 340B program.

## **Tennessee: House Bill 1398 (Signed May 2021)**

Prohibits pharmacy benefit manager from discriminatory practices regarding pricing, reimbursements, fees or other adjustments based on participation in the 340B program.

## **Utah: Senate Bill 138 (Enacted March 2020)**

Prohibits pharmacy benefit manager from reimbursing 340B entities at lower rates and contains prohibitions on other ways that PBMs discriminate against 340B pharmacies or block them from participation.

## **West Virginia: House Bill 2263 (Enacted March 2021) and Senate Bill 489 (Enacted March 2019)**

Regulates pharmacy benefit manager and prohibits PBMs from reimbursing 340B entities at rates lower than non-340B entities.

# 340B Answers

## Frequently Asked Questions

There are several compelling statistics and evidence showing the 340B Drug Program works for patients, hospitals and communities. Below are a few of the FAQs.

***Does Kansas have the authority to tell the federal government how to run their program.***

***The United States Supreme Court and the Kansas attorney general have all agreed that states are NOT prevented from improving access to affordable prescription drugs.***



# 340B Answers for FAQs

***If hospitals are making money on this program, who is paying for this?***

***The program is designed as a way for large pharmaceutical companies to take part in assisting with large amounts of uncompensated care. Hospitals do not profit from this program, but rely on the savings from the program to provide critical services to patients.***

***Is there currently only one pharmacy benefit manager trying to undermine the program?***

***While there is only one pharmacy benefit manager requiring additional reporting information, contractual changes based on being a 340B entity have been occurring with more than one PBM. This is a larger problem than just one bad apple, although, one is too many.***

***Can anything be done about this complicated issue?***

***Yes. Indeed, there are many parties involved, and transparency issues exist in the industry of pharmaceuticals, however, this doesn't mean there is nothing that can be done to address business practices in Kansas.***

***Is the 340B program an over-inflated, large program?***

***No. The 340B Drug Pricing Program is approximately four percent of the nation's total spend on pharmaceuticals. All 340B covered entities are required to have a compliance program to avoid duplicate claims and diversions (billing for an unauthorized prescription as a 340B drug).***



# 340B Answers for FAQs

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**Why are hospitals and safety net clinics reliant on this program?**

*The 340B Drug Pricing Program is targeted at helping health care safety net providers and their patients by providing low-cost drugs for patients and cost savings for providers. This, in turn, allows them to provide increased access to care.*

*Eligible hospitals include disproportionate share hospitals, so named because they provide services to a significantly disproportionate number of low-income patients. This means they provide higher uncompensated care and have more Medicaid patients than other hospitals. These hospitals absorb a significant amount of the cost of providing services for the uninsured and for Medicaid, which reimburses care at as little as 50 percent of the cost of care, as well as Medicare, which reimburses at approximately 85 percent of the cost of care.*

*The cost savings from the 340B program help eligible hospitals maintain services in their communities for private pay, Medicaid, Medicare and uninsured patients. The cost savings also allow hospitals to stretch their resources to improve access to care in communities that may not have services available.*

**Is the 340B program is plagued with abuse?**

*340B Drug Pricing Program covered entities must ensure program integrity and maintain accurate records documenting compliance with all 340B program requirements.*

*The Health Resources and Services Administration has the authority to audit covered entities for compliance with 340B Drug Pricing Program requirements (42 USC 256b(a)(5)(C)) annually. Covered entities are subject to audits by the federal government. Failure to comply may result in the 340B covered entity being liable to manufacturers for refunds of discounts or cause the covered entity to be removed from the 340B program.*

*When participants are getting too much in savings from the program, they are required to pay back the overages. This is an assurance that the [checks and balances](#) in place work well, providing necessary protections to drug manufacturers and pharmacy benefit managers.*

# 340B Personal

## Stories

### 340B helping keep diabetic care affordable

A patient was hospitalized because of diabetes mellitus, complicated by a severe cellulitis infection. He could not afford the medications needed to manage his diabetes. Uncontrolled blood sugars resulted in an infection necessitating hospitalization for IV antibiotic therapy. Once his infection and diabetes stabilized in the hospital, he was ready for discharge.

However, since he was not able to afford his medications after discharge, there was a very high likelihood he would be readmitted to the hospital for continued complications. Thanks to the 340B program, the hospital's outpatient pharmacy was able to provide free insulin and oral antibiotic therapy for the patient so he could receive the treatments he needed; thus, allowing him to return home and maintain his health.

The pharmacist also provided him with education so he would understand how to correctly take and monitor his medication therapy.



### 340B covering chemotherapy for the uninsured

A young woman living in a small Kansas town was diagnosed with breast cancer. There were no local oncologists or options for cancer chemotherapy treatment in her community so she traveled to larger hospital more than an hour away. Fortunately, the cancer was caught early and was treatable with a lumpectomy and combination chemotherapy.

However, the woman, a waitress, was uninsured and unable to cover the cost of necessary medications. Thanks to support from the 340B program, she was provided the drugs she needed at no charge at the hospital's outpatient infusion center.

# 340B Personal Stories



## 340B helping seniors on fixed incomes

A patient in Pittsburg, Kansas, was admitted to the hospital to treat a life-threatening blood clot. Upon release, she need medication for three months to continue treating this condition.

While she had insurance, every recommended medication cost more than \$440 per month even with her insurance. However, she could not afford the medication because she is a senior citizen on a fixed income. Through the 340B program, the patient was able to obtain one of the medications for \$84.51 at one of the hospital's contract pharmacies.

## 340B making prescriptions affordable

A patient in Wichita with insurance was unable to afford the inhaler to treat his chronic obstructive pulmonary disease due to an extremely high patient responsibility. He was first seen at the hospital's emergency department with uncontrolled COPD, and then received follow-up care at a 340B eligible clinic, where he received the inhaler at the reduced 340B price.

The hospital working with the patient shared: "I asked if the price was okay and he was so elated! You could tell a weight had been lifted off his shoulders. He said the price was more than okay." This is why the program is so important.

## 340B allows treatment of rare conditions

A woman was the second person in her family to be diagnosed with Pompe's Disease. The disease is a rare, typically fatal, neuromuscular disease affecting only one out of 40,000 people. It causes damage to the heart and skeletal muscles and is caused by a genetic defect.

The patient needed to take the only medication on the market that treats the disease. This rare medication costs nearly \$400,000 per year. With help through the 340B program, the drug's price was reduced by one-third and the hospital covered the remaining cost of the drug.

# 340B Hospitals in Kansas

Memorial Health System	Abilene	CAH
Patterson Health Center	Anthony	CAH
South Central Kansas Regional Medical Center	Arkansas City	
Ashland Health Center	Ashland	CAH
Amberwell Health	Atchison	CAH
Rawlins County Health Center	Atwood	CAH
Republic County Hospital	Belleville	CAH
Mitchell Cty. Hospital Health Systems	Beloit	CAH
Coffey County Hospital	Burlington	CAH
Sumner County Hospital District 1	Caldwell	CAH
Neosho Memorial Regional Medical Ctr.	Chanute	CAH
Clay County Medical Center	Clay Center	CAH
Coffeyville Regional Medical Center, Inc.	Coffeyville	
Citizens Health	Colby	CAH
Mercy Hospital Columbus	Columbus	CAH
Cloud County Health Center	Concordia	CAH
Morris County Hospital	Council Grove	CAH
Lane County Hospital	Dighton	CAH
Ellinwood District Hospital	Ellinwood	CAH
Ellsworth County Medical Center	Ellsworth	CAH
Newman Regional Health	Emporia	CAH
Greenwood County Hospital	Eureka	CAH
St. Catherine Hospital	Garden City	
Anderson County Hospital	Garnett	CAH
Girard Medical Center	Girard	CAH
Goodland Regional Medical Center	Goodland	CAH
University of Kansas Health System Great Bend Campus	Great Bend	
Kiowa County Memorial Hospital	Greensburg	CAH
Hanover Hospital	Hanover	CAH
Herington Municipal Hospital	Herington	CAH
Amberwell Hiawatha	Hiawatha	CAH
Graham County Hospital	Hill City	CAH
Clara Barton Hospital	Hoisington	CAH
Holton Community Hospital	Holton	CAH
Sheridan County Health Complex	Hoxie	CAH
Stevens County Hospital	Hugoton	CAH
Allen County Regional Hospital	Iola	CAH
Hodgeman County Health Center	Jetmore	CAH
Stanton County Hospital	Johnson	CAH
Geary Community Hospital	Junction City	
The University of Kansas Health System	Kansas City	
Kingman Healthcare Center	Kingman	CAH
Edwards County Medical Center	Kinsley	CAH
Kiowa District Healthcare	Kiowa	CAH
Rush County Memorial Hospital	La Crosse	CAH
Kearny County Hospital	Lakin	CAH
University of Kansas Health System Pawnee Valley Campus	Larned	CAH
Wichita County Health Center	Leoti	CAH
Lincoln County Hospital	Lincoln	CAH
Lindsborg Community Hospital	Lindsborg	CAH
Hospital District #1 of Rice County	Lyons	CAH
Jewell County Hospital	Mankato	CAH
St. Luke Hospital and Living Center	Marion	CAH
Community Memorial Healthcare, Inc.	Marysville	CAH
Ascension Via Christi Manhattan, Inc.	Manhattan	

## CAH

*Denotes Critical Access Hospital, which is a designation given to eligible rural hospitals by the Centers for Medicare & Medicaid Services.*

*The CAH designation is designed to reduce the financial vulnerability of rural hospitals and improve access to health care by keeping essential services in rural communities.*

# 340B Hospitals in Kansas

Medicine Lodge Memorial Hospital	Medicine Lodge	CAH
Minneola Healthcare	Minneola	CAH
Wilson Medical Center	Neodesha	CAH
Ness County Hospital District #2	Ness City	CAH
Norton County Hospital	Norton	CAH
Logan County Health Services	Oakley	CAH
Decatur Health	Oberlin	CAH
Community HealthCare System, Inc.	Onaga	CAH
Osborne County Memorial Hospital	Osborne	CAH
Children's Mercy Hospital Kansas	Overland Park	
St. Luke's Hospital of Kansas City	Overland Park	
Labette County Medical Center	Parsons	
Phillips County Health Systems	Phillipsburg	CAH
Ascension Via Christi Hospital Pittsburg, Inc.	Pittsburg	
Rooks County Health Center	Plainville	CAH
Gove County Medical Center	Quinter	CAH
Russell Regional Hospital	Russell	CAH
Sabetha Community Hospital	Sabetha	CAH
Great Plains of Cheyenne County, Inc.	St. Francis	CAH
Satanta Dist. Hospital, Clinics & LTCU	Satanta	CAH
Scott County Hospital	Scott City	CAH
Nemaha Valley Community Hospital	Seneca	CAH
Smith County Memorial Hospital	Smith Center	CAH
Stormont Vail Healthcare, Inc.	Topeka	
Greeley County Health Services	Tribune	CAH
Trego County-Lemke Memorial Hospital	WaKeeney	CAH
Washington County Hospital	Washington	CAH
Ascension Via Christi Hospital Wichita, Inc. St. Francis Campus	Wichita	
Ascension Via Christi Hospital Wichita, Inc. St. Joseph Campus	Wichita	
William Newton Hospital	Winfield	CAH

Have more questions about 340B? Want to connect with KHA members? Need additional resources?

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## What happens if Kansans lose access to 340B?

Low-income patients lose access to medications to address serious or chronic issues

Health centers take a significant financial hit leading to operational changes

Poor health outcomes across Kansas



Patients choosing between purchasing medications and other household essentials

Fewer patients are served due to cuts especially in rural areas where access to care is a critical issue

Increased unemployment and decreased labor markets