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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

July 31, 2013

Mr. Gregory Wasson
President and CEO
Walgreens
200 Wilmot Road
Deerfield, Illinois, 60015

Dear Mr. Wasson:

The 340B program, as established in the Public Health Service Act (PHSA), is a voluntary program that ensures that certain providers within our nation's health care safety net (covered entities) have access to outpatient drugs at or below statutorily defined ceiling prices.¹ The original intent of the program was to extend the Medicaid drug discount to the most vulnerable of patients at PHS Clinics, those who are mostly, "medically uninsured, on marginal incomes, and have no other source to turn to for preventive and primary care services."²

In its September 2011 report on the 340B program, the Government Accountability Office (GAO) notes an inadequate level of oversight by the Health Resources and Service Administration (HRSA) and a lack of necessary direction on program requirements.³ The greatest concern of the GAO finding is that, "Increased use of the 340B program by contract pharmacies and hospitals may result in a greater risk of drug diversion, further heightening concerns about HRSA's reliance on participants' self-policing to oversee the program."⁴ Moreover, GAO found that, "Operating the 340B program in contract pharmacies creates more opportunities for drug diversion compared to in-house pharmacies."⁵

The growth of contract pharmacies has exploded in recent years with HRSA's new multiple contract pharmacy guidance issued on March 5, 2010. According to GAO, as of July 2011, there were over 7,000 contract pharmacy arrangements in the program.⁶

¹ 42 U.S.C. 256(b).

² Public Health Clinic Prudent Pharmaceutical Purchasing Act, Comm. Report to Accompany S. 1729, 102-259, Senate Comm. On Labor and Human Resources, Mar. 3, 1992.

³ U.S. Government Accountability Office, GAO-11-836, Drug Pricing: Manufacturing Discounts In The 340B Program Offer Benefits, But Federal Oversight Needs Improvements (2011).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

As more discounted drugs intended for indigent patients under the 340B program are resold at a markup to those insured through Medicare, the financial liability to the federal government increases. The intent and design of the program is to help lower outpatient drug prices for the uninsured. It is not intended to subsidize pharmacies that team up with covered entities to turn a profit. Of the 7,000 contract pharmacies, 5,400 are Walgreens. In a February 28, 2012, slide presentation entitled, “Innovation Care Delivery Models: Pharmacy and Health Systems Collaborations,” Walgreens discusses ways to, “generate revenue from [its] 340B patients.”⁷ Additionally, the presentation describes ways in which Walgreens can help manage inventory and information, such as, “daily patient detail reports – date, medication, quantity filled and copay.”⁸

Furthermore, Walgreens Senior 340B Inventory and Reconciliation Analyst, Timothy Hong, states on his LinkedIn page that 340B is “...a relatively new area within Walgreens and is projected to add a minimum of \$250 million in incremental revenue over the next 5 years.”⁹ Mr. Hong goes on to say that Walgreens “...optimizes client’s 340B program, so they can be more profitable while lowering Walgreens liability.”¹⁰

To help better understand Walgreen’s participation as a contract pharmacy, please provide the following documents and response to the below inquires by August 14, 2013:

- 1) Please provide a list of all 340B covered entities with which Walgreens has an active contract pharmacy agreement, either indirectly or directly. When providing this information, please provide the distance between each participating Walgreens and the 340B covered entity and the type of covered entity (i.e. Critical Access Hospitals, Disproportionate Share Hospitals).
- 2) Please provide a summary of all profits generated as a result of participating in the 340B program as a contract pharmacy. When providing this information, please break down the revenue by location and participating covered entity.
- 3) Please provide the different types of 340B services that Walgreens provides to covered entities, and the fees associated with each type of service.
- 4) For the top 100 340B drugs dispensed, please provide a breakdown of the financial arrangement, including: how much money goes to (1) the participating covered entity; (2) Walgreens; and (3) any supplemental vendor or contractor that assists in managing the relationship between Walgreens and the covered entity (i.e. split billing software vendor).

⁷ February 28, 2012, PowerPoint presentation entitled “Innovative Care Delivery Models: Pharmacy & Health Systems Collaborations.”

⁸ *Id.*

⁹ See <http://www.linkedin.com/pub/timothy-hong/28/651/511>

¹⁰ *Id.*

- 5) What protections does Walgreens have in place to ensure low-income, uninsured eligible 340B patients are receiving the 340B discounted drug as close to acquisition cost as possible?
- 6) Covered entities have long argued that the 340B program was intended to assist non-profit safety-net providers to, “stretch scarce Federal resources,” in serving the underserved populations in their communities. Under this interpretation, why should Walgreens, as a for-profit corporation, financially benefit from such a program?
- 7) Does Walgreens have a transparent process for reinvesting money back into underserved communities generated by being a contract pharmacy in the 340B program? If not, why not?
- 8) The February presentation mentions that Walgreens is able to assist with 340B related auditing requirements. Please provide additional information regarding such abilities and a breakdown of any assistance provided to covered entities to date.

Maintaining the integrity of the 340B program is of the utmost importance, and we trust that you share our concerns. If you have any questions regarding this request, please contact Erika Long of the Senate Committee on the Judiciary at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary