



April 10, 2025

Chairwoman Susan Donovan
House Health and Human Services Committee
Rhode Island State House
82 Smith Street
Providence, RI 02903

Re: Amgen HB 5634 Opposition Testimony

Dear Chairwoman Donovan and Members of the House Health and Human Services Committee,

Amgen is proud to be a part of the Rhode Island business community. We discover, develop, manufacture and deliver innovative medicines to help over 10 million patients around the world. Amgen has called Rhode Island home for nearly 23 years, investing over \$2.1 billion in the state. Our 75-acre site in West Greenwich employs approximately 900 staff, manufacturing 14 biologic medicines with over 1 million square feet of facilities.

Amgen respectfully urges your "NO" VOTE on HB 5634, which would mandate drug manufacturers facilitate delivery of deeply discounted 340B-priced products, intended to support care in underserved communities, to any contracted commercial pharmacy in an improper expansion of the federal 340B program. This bill contradicts federal court rulings, exacerbates program integrity concerns, and increases costs for patients, employers, and the State.

The 340B program was established in 1992 to help safety-net providers and their patients, but its expansion, particularly via significant growth in contract pharmacy arrangements, has greatly transformed the program. Instead of serving low-income and uninsured patients, large hospital systems and their for-profit pharmacy partners are exploiting the program's lack of oversight. For instance, a report by the North Carolina State Treasurer, found that North Carolina 340B hospitals charged state employees an average markup of 5.4 times the acquisition cost for cancer drugs.¹

¹ North Carolina State Health Plan for Teachers and State Employees. Overcharged: State Employees, Cancer Drugs, and the 340B Drug Pricing Program (2024). <https://www.shpnc.org/documents/overcharged-state-employees-cancer-drugs-and-340b-drug-price-program/download?attachment>.

Recent research published by IQVIA found that, in 2023, rebates lost to 340B discounts increased costs to workers and employers in Rhode Island by \$32 million annually – with an additional \$4 million in costs to the State itself.² According to the study, legislation broadly mandating the inclusion of contract pharmacies would increase these costs in the State by an additional \$7 million in costs to workers and employers and \$1 million to the government. Nationally, it increased costs to employers by \$6.6B and state and local governments by \$1B because 340B discounts displaced manufacturer rebates on the same drug.³

In recent years, investigative journalism by the Wall Street Journal^{4,5} and New York Times⁶ has exposed that a significant portion of 340B revenue is not reinvested into patient care, as the program intended, but is instead retained as additional revenue for hospitals and contract pharmacies. This exploitation calls into question whether 340B is fulfilling its purpose or simply enriching intermediaries at the expense of manufacturers, patients, and employers.

The HB 5634 contract pharmacy mandate proposal is also contrary to two recent federal Courts of Appeals rulings. In 2023, the U.S. Court of Appeals for the Third Circuit held that “section 340B [of the federal statute] does not require delivery to an unlimited number of contract pharmacies” and “Congress never said that drug makers must deliver discounted Section 340B drugs to an unlimited number of contract pharmacies.”⁷ In 2024, the U.S. Court of Appeals for the D.C. Circuit unequivocally reinforced this ruling.⁸ Thus, the 340B statute, which governs all aspects of participation in the program, does not require manufacturers to deliver discounted drugs to an unlimited number of contract pharmacies.

Further, Amgen believes HB 5634's contract pharmacy mandate is preempted by federal law. This mandate offends the Supremacy Clause because it would thrust Rhode Island into the middle of a complex federal healthcare regime and meddle with the substantive rules and enforcement mechanisms that Congress created to govern it. It further attempts to regulate the price at which drug products are sold to pharmacies, not any aspect of delivery or safety that might normally be a state concern. Because federal law exclusively mandates which entities are entitled to the federal 340B discount, the bill's attempts to expand that universe are improper and preempted. This bill conflicts with these precedents and risks legal challenges.

² IQVIA. The Cost of the 340B Program to States. February 2025. <https://www.iqvia.com/locations/united-states/library/white-papers/the-cost-of-the-340b-program-to-states>.

³ Ibid.

⁴ Wall Street Journal. “Hospitals Often Don’t Help Needy Patients, Even Those Who Qualify.” November 2022.

⁵ Wall Street Journal. “Many Hospitals Get Big Drug Discounts. That Doesn’t Mean Markdowns for Patients.” December 2022.

⁶ The New York Times. “Profits over Patients: How a Hospital Chain Used a Poor Neighborhood to Turn Huge Profits.” September 2022.

⁷ *Sanofi Aventis U.S. LLC v. United States Dep’t of Health & Hum. Servs.*, 58 F.4th 696 (3d Cir. 2023).

⁸ *Novartis Pharms. Corp. v. Johnson*, Nos. 21-5299, 21-5304 (D.C. Cir. May 21, 2024).

Amgen urges your “NO” VOTE on House Bill 5634. Rather than reinforcing a flawed contract pharmacy model, any reforms of 340B policy should focus on ensuring 340B discounts directly benefit patients. The expansion of contract pharmacy mandates is preempted by federal law, contradicts federal rulings, increases costs, and undermines program integrity. Rhode Island should not pursue legislation that ultimately increases the financial burden on patients, employers, and the State while benefiting intermediaries that operate beyond the original intent of the 340B program.

Sincerely,

/s/ Christopher Kent

Christopher J. Kent
Associate Director, State Government Affairs
Amgen U.S.A.