COMMUNITY ACCESS NATIONAL NETWORK

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Michigan State Legislature
Senate Oversight Committee
PO Box 30036
Lansing, MI 48909

Via electronic mail

RE: SB 94

Dear Honorable Chairman Singh, Majority Vice Chair McMorrow, Minority Vice Chair McBroom, Members of the Michigan Senate Oversight Committee, and your respected staff,

The Community Access National Network writes urging caution regarding **SB 94**, which would expand the federal 340B Drug Pricing Program in Michigan without sufficient oversight to ensure the program appropriately serves patients, particularly those living with HIV and other chronic health conditions.

The Community Access National Network (CANN) is a 501(c)(3) national nonprofit organization focusing on public policy issues relating to HIV/AIDS and viral hepatitis. CANN's mission is to define, promote, and improve access to healthcare services and support for people living with HIV/AIDS and/or viral hepatitis through advocacy, education, and networking.

While CANN is primarily focused on policy matters affecting access to care for people living with and affected by HIV, we stand in firm support of all people living with chronic and rare diseases and recognize the very reality of those living with multiple health conditions and the necessity of timely, personalized care for every one of those health conditions. The 340B Drug Pricing Program is of profound importance to our community.

On May 28th, 2024 the "340B Affording Care for Communities and Ensuring a Strong Safety-net Act" or "340B ACCESS Act" was unveiled in the United States House of Representatives. The bill represents a careful negotiation between a variety of stakeholders affected by the 340B program, including but not limited to the National Association of Community Health Centers, a trade organization representing pharmaceutical manufacturers, and several patient advocacy organizations. CANN is proud to count ourselves among the members working to find consensus on reforming the 340B drug discount program.

SB 94 undermines the well-recognized need for reform to align 340B with its original intent because the bill seeks an avenue to expand 340B contract pharmacy arrangements without limitation – particularly, limitations necessary to ensure proper transparency and accountability.

Transparency and accountability largely already exist for Grantee entities via requirements set forth by grant contracts with the Health Resources and Services Administration (HRSA). However, other stakeholders, including so-called "disproportionate share hospitals" (DSH), pharmacy benefit managers, third party administrators, and contract pharmacies have engaged in practices that further consolidation, harm access to care and efforts to address health disparities, and otherwise extract value within the program away from patients, vulnerable communities, and true safety-net providers.

These problems are so significantly large that not only are federal legislators seeking to introduce transparency but numerous state and federal investigations into the role 340B plays in consolidation. Similarly, diversion of program benefit from needy communities and into wealthier communities is only further enabled when the program is expanded without sufficient guardrails. Unchecked, the 340B has encouraged hospital consolidation or, in an extraordinary example of abuse, been the driving financing force in mismanaged housing programs that have left patients dead. One study on covered entity practices aptly referenced these distinctions in program engagement as "mission-motivated" versus "margin-motivated".

To demonstrate our concerns, we detail below a sample of three (3) large health systems lack of charity care relative to their issuance of "bad debt", otherwise known as "medical debt" as identified by each entity's own IRS 990 (Schedule H) filings:

- - Henry Ford Health System
    - - Part I, Section 7, Line (a) - Financial Assistance at Cost (known as "charity care"): $44,814,817
    - - Part III, Section A, Line 2 –
    - "Bad Debt Expense" (known as "medical debt"): $46,942,118
    - - Part III, Section A, Line 3 –
    - "Bad Debt Expense" attributed to patients qualifying for financial assistance: $11,735,529
- - Corewell Health
    - - Part I, Section 7, Line (a) - Financial Assistance at Cost (known as "charity care"): $33,582,408
    - - Part III, Section A, Line 2 –
    - "Bad Debt Expense" (known as "medical debt"): $276,269,402
- - Trinity Health Michigan
    - - Part I, Section 7, Line (a) - Financial Assistance at Cost (known as "charity care"): $11,863,024
    - - Part III, Section A, Line 2 –
    - "Bad Debt Expense" (known as "medical debt"): $80,633,226

Despite the publicly available data above, these same entities are not held responsible for their use of millions of dollars in 340B program revenues. Instead, the current lack of oversight amounts to "just trust us".

This Legislature well knows "trust us" does not invoke public trust, either in these institutions or in the institution of this very body. Michiganders would be better served if the Legislature instead of expanding this program, chose to conduct meaningful oversight of these entities, investigating the role 340B plays in provider and entity consolidation, driving higher costs of healthcare for all residents of the state, and work to ensure these entities operate as truly charitable institutions, not profiteering off of needy patients.

SB 94 poses the potential to exacerbate problems in the 340B program without sufficiently ensuring the expansion actually benefits patients.

If this body seeks to positively impact patient access to care, priority on PBM reform is a must. PBM reform, not unchecked 340B expansion, speaks most directly to patient concerns regarding pharmacy access, benefit design, and medication affordability.

To be clear, CANN supports a strong 340B program. When 340B operates the way it is intended, safety-net providers thrive and vulnerable communities, families, and individuals gain access to healthcare they might otherwise not have. CANN welcomes discussion on instituting appropriate guardrails into legislation that would serve to strengthen the program, shield good stewards, and hold accountable bad actors within the appropriate limitations of state powers associated with this federal program.

We would be happy to discuss this legislation or any other matters of public health, please feel free to reach out by email or phone at kalvin@tiican.org , 913-954-8816, or jen@tiicann.org, 313-333-8534.

Respectfully submitted,

Sincerely,
Kalvin Pugh
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Community Access National Network (CANN)

On behalf of
Jen Laws
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Community Access National Network