Minnesota Hospital Association

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Chair Wiklund and members of the Health and Human Services Committee,

We are reaching out to you today on behalf of the Minnesota Hospital Association (MHA) regarding our concerns with the impacts of SF 2067 on the Federal 340B Drug Pricing Program (340B). SF 2067 proposes to transfer Minnesota's managed care Medicaid pharmacy benefit to a fee-for-service (FFS) model. While it is not explicitly stated in the bill, an unintended consequence caused by the complete transfer of the benefit from managed care to FFS triggers a federal rule that will eliminate millions of dollars in annual savings for eligible safety-net providers that participate in 340B. Although we understand the need to address unchecked pharmaceutical costs and its negative impact on patient care in Minnesota, SF 2067 would damage existing funding for increased access to care and services at safety net hospitals and other safety net providers across Minnesota.

340B Savings and Covered Entities: Created by Congress in 1992, 340B requires pharmaceutical manufacturers participating in Medicaid to sell outpatient drugs at significantly discounted prices to specific health care providers that serve many uninsured and low-income patients. Such providers referred to as 340B covered entities include disproportionate share and children's hospitals, critical access hospitals, federally qualified health centers, Ryan White HIV clinics and other critical safety-net providers across Minnesota.

Covered entities benefit from 340B in two ways. First, when discounted drugs are dispensed to uninsured patients, covered entities bare less cost due to the discount. Second, when discounted drugs are dispensed to insured patients – including managed care Medicaid enrollees – the covered entity keeps the difference between the discounted drug price and the reimbursement rate, generating savings for the covered entity to subsidize critical patient care services and costs.

Minnesota's hospitals and other covered entities use 340B savings as Congress intended – to stretch scarce federal resources to provide more comprehensive services to more eligible patients. The discounts are often extended directly to patients, but the savings are also used to provide necessary services to patients for which no reimbursement is available. Some examples of how Minnesota's hospitals use 340B savings to benefit their general patient population include but are not limited to:

- Addressing social determinants of health by connecting patients to social service resources and legal assistance
- Providing critical services – such as vaccines, medication management, and mental health care – to patients regardless of insurance status and ability to pay
- Funding patient outreach programs that bring medical providers into the community to provide specialty care that supports the management of chronic diseases

340B Savings vs. State Medicaid Rebates: On lines 2.5-2.7, SF 2067 instructs the Commissioner of Human Services to, "engage in price negotiations with prescription drug manufacturers, wholesalers, or group purchasing organizations to obtain price discounts and rebates for prescription drugs for program participants." While SF 2067 may generate savings for the state, it comes at the expense of 340B covered entities.

Much of the potential savings from rebates will accrue to the federal government rather than remain invested in our underserved communities. When the state Medicaid agency receives the benefits of discounts on outpatient drugs via drug rebates, a portion of these savings are withheld by the Centers for Medicare and Medicaid Services (CMS) per the federal match. At a minimum, 50% of the savings are retained by CMS. In contrast, when 340B covered entities retain the savings 100% of the dollars stay in

Minnesota and are invested into activities that increase comprehensive access to care for medically underserved patients across our state.

For example, a Critical Access Hospital in Minnesota fills a prescription for a managed care Medicaid enrollee and the total savings available on that drug is $10 via either a 340B discount to the hospital or a drug rebate to the state. If the state takes the $10 rebate, between at least $5 and $9 is reverted to the Federal government per the federal match, reducing the total savings that accrue to the state to between $1 and $5. However, if the $10 is retained by the hospital or covered entity via 340B, the full $10 dollars stays in Minnesota and is used to increase access to patient care and services.

How SF 2067 Eliminates Millions of Dollars in 340B Savings per Federal Regulation: In February 2016, CMS issued a final regulation – commonly called the "Medicaid Covered Outpatient Drug Rule" – on the Medicaid drug rebate program. This regulation stated that under Medicaid FFS, states must reimburse 340B covered entities for drugs at an amount equal to their "actual acquisition cost" (AAC) plus an "appropriate professional dispensing fee." By transferring the state's Medicaid pharmacy benefit entirely to FFS, SF 2067 triggers this federal regulation and 340B covered entities are no longer able to retain any 340B savings on Medicaid FFS drugs.

Under the proposed FFS arrangement in SF 2067, covered entities effectively pass the 340B savings to the Minnesota Department of Human Services. However, if the covered entity continues to use 340B to purchase discounted medications for their FFS Medicaid patients the state must refrain from seeking a Medicaid rebate on the FFS covered drugs pursuant to the Medicaid Exclusion File (MEF) and the requirement to eliminate duplicate discounts. Therefore, under SF 2067 there is both the potential for the elimination of 340B savings currently available for investment into patient care and the state will not be able to pursue a Medicaid drug rebate.

To conclude, 340B is an established and successful federal program that Minnesotans and their safety net providers have relied on for 30 years to support access to comprehensive health care services. MHA is eager to work with this Committee and the legislature to ensure that 340B is protected, access to discounted medications is sustained, and the ability for hospitals and all 340B Covered Entities to invest in services for their patients and communities remains secure.

Thank you for your consideration of our comments.

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