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March 13, 2024

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IPHCA, IHA Applaud 8th Circuit Decision Upholding Arkansas Law Protecting 340B Contract Pharmacy Partnerships

SPRINGFIELD – The Illinois Health and Hospital Association (IHA) joined the Illinois Primary Health Care Association (IPHCA) to applaud the U.S. Court of Appeals for the 8th Circuit’s March 12 decision upholding Arkansas’ 340B Drug Pricing Nondiscrimination Act against a constitutional challenge brought by the Pharmaceutical Research and Manufacturers of America (PhRMA).

The 8th Circuit’s decision upheld Arkansas law (Act 1103) prohibiting drug companies from restricting provider access to 340B discounts through contract pharmacies, and agreeing that state law isn’t preempted by federal law, but instead supports the 340B program. Of note, the Court found, “Pharmacy has traditionally been regulated at the state level, and we must assume that absent a strong showing that Congress intended preemption, state statutes that impact health and welfare are not preempted.”

“We are pleased to see that the 8th Circuit Court affirmed the right of Arkansas to regulate the distribution of 340B drugs,” said Ollie Idowu, President and CEO at the Illinois Primary Health Care Association. “We need the General Assembly in Illinois to pass Senate Bill 3727—the Illinois Patient Access to 340B Pharmacy Protection Act—and achieve the same outcome, which ultimately protects our most vulnerable population and ensures they have access to the affordable medications they need. The time for Illinois to take action is now.”

The Court also wrote, “Act 1103 does not create an obstacle for pharmaceutical manufacturers to comply with 340B, rather it does the opposite: Act 1103 assists in fulfilling the purpose of 340B. In arguing otherwise, PhRMA presents no evidence of an obstacle,” and stated, “PhRMA alleges no circumstance where a covered entity’s contract pharmacy arrangement has made simultaneous compliance with state and federal law impossible. As such, the court found federal law does not preempt the Act.”

“The decision handed down yesterday confirms that contract pharmacies can be used by 340B entities, with nothing in federal law prohibiting that partnership,” said A.J. Wilhelmi, President and CEO of IHA. “This decision underscores what the hospital and healthcare community has

consistently argued: By contracting with local pharmacies, 340B covered entities are able to expand access to care by ensuring that the drugs needed by their patients are available at their local pharmacy, in compliance with federal law and with no significant obstacles for pharmaceutical manufacturers. In light of this decision, we call on Big Pharma to immediately halt their efforts to interfere with hospitals, health centers and their contract pharmacies, which is limiting access to care and exacerbating health disparities in Illinois.”

The IPHCA and IHA say the 8th Circuit decision further validates their argument that the 340B program is not preempted by the U.S. Constitution, calling for Senate Bill 3727 to be considered during the spring legislative session. By advancing the Illinois Patient Access to 340B Pharmacy Protection Act—modeled on the Arkansas legislation—pharmaceutical manufacturers would be prohibited from prohibiting, restricting or interfering with a local pharmacy that contracts with a 340B covered entity, such as a hospital or federally qualified health center (FQHC), to dispense medications acquired through the 340B drug discount program.

[Click here](#) to learn more about how [Senate Bill 3727](#) will improve access to affordable drugs for uninsured patients and increase access to healthcare services in underserved communities.

About the Illinois Primary Health Care Association

IPHCA is a nonprofit trade association that serves as the voice of and champion for Illinois’ 54 community health centers, which serve more than 1.5 million patients annually across more than 430 service sites in medically underserved rural, urban, and suburban areas. [IPHCA.org](#).

About the Illinois Health and Hospital Association

The Illinois Health and Hospital Association, with offices in Chicago, Naperville, Springfield, and Washington, D.C., advocates for Illinois’ more than 200 hospitals and nearly 40 health systems as they serve their patients and communities. IHA members provide a broad range of services—not just within their walls, but across the continuum of healthcare and in their communities. Reflecting the diversity of the state, IHA members consist of nonprofit, investor-owned and public hospitals in the following categories: community, safety net, rural, critical access, specialty, and teaching hospitals, including academic medical centers. For more information, see www.team-iha.org. Like IHA on [Facebook](#). Follow IHA on [X](#) (formally known as Twitter).

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