

May 21, 2025

The Honorable Robert F. Kennedy, Jr., Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Kennedy:

On behalf of The Suburban Hospital Alliance of New York State, which represents hospitals and health systems in New York's Hudson Valley and on Long Island, I urge you to reject the efforts of several large global drug companies to undermine the 340B Drug Pricing Program by imposing a "rebate model," rather than the longstanding "upfront discount" model that the Department of Health and Human Services (HHS) has permitted since the outset of the program. The 340B Program is a vital lifeline for safety-net hospitals serving rural and low-income communities that are already operating on the thinnest of margins. This model change will also impose significant financial and administrative burdens on hospitals while jeopardizing patients' access to medically necessary care.

We share the American Hospital Association's (AHA) position that these proposed "rebate models" are unlawful and that HHS does not have the legal authority to approve them. In recent litigation over these rebate models, the drug companies argued that settled Supreme Court precedent holds that the 340B statute "forbids ... the *private* enforcement of 340B program requirements in all forms." That is *exactly* what the drug companies are trying to do with their rebate models and it is exactly what the Supreme Court has said they *cannot* do.

We also agree with the AHA that the drug industry has spun a false narrative about 340B Program abuses and the need for the "rebate models" to address them (instead of the statutory audit procedures). As AHA's data demonstrates, 340B hospitals are meeting program rules and regulations. The drug companies are not. Hospitals have made significant improvements in compliance over the past five years, which likely reflects the work they have done with third-party administrators and other entities to conduct regular and comprehensive internal self-audits of their 340B programs. Meanwhile, drug companies continue to demonstrate a high degree of non-compliance with program rules and regulations.

If forced to incur these costs, hospitals in both regions will need to divert limited resources away from patient care. This runs directly counter to the original intent of the 340B Program, which is to allow hospitals to stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services.

Thank you for your time and attention to this matter. Please do not hesitate to contact me about these or other issues. I hope you will consider the Suburban Hospital Alliance of New York State as a resource as you carefully evaluate HHS' options regarding this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Wendy Darwell". The signature is fluid and cursive, with a large initial "W" and "D".

Wendy D. Darwell
President and Chief Executive Officer