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# United States Senate

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November 16, 2023

## VIA ELECTRONIC TRANSMISSION

Anne Kauffman Nolon, MPH  
Chief Executive Officer  
Sun River Health  
71 W 23<sup>rd</sup> Street  
New York City, New York 10010

Dear Ms. Kauffman:

I write to request information regarding your health system's participation in the 340B Drug Pricing Program (340B Program).

Community Health Centers (CHCs) are essential components of our nation's health care infrastructure. These centers serve the medically underserved and vulnerable and provide these patients with critical medical services regardless of a patients' ability to pay, including family medicine, cancer screenings, and emergency medical and pharmaceutical services. CHCs also fulfill the mission of providing care to those who are underserved through their mandate to administer a sliding fee scale of services for patients with low incomes.

CHCs are eligible for participation in the 340B Program as a "covered entity," which allows them to purchase prescription drugs at a significant discount.<sup>1</sup> Although covered entities purchase prescription drugs at a significant discount under the 340B Program, they are still permitted to bill private and public insurers for the full cost of the drug. The difference between the acquisition costs and billed amounts generate revenue for covered entities, though significant questions remain as to how covered entities use that revenue.

For covered entities without an in-house pharmacy, the Health Resources and Services Administration (HRSA) permits those participating in the 340B Program to contract with an outside pharmacy to provide services to the patient.<sup>2</sup> In 2010, HRSA issued new guidelines that allowed covered entities to use complex arrangements that included multiple pharmacies.<sup>3</sup>

<sup>1</sup> Public Health Service Act, 42 U.S.C. § 340B(4). *See also* e. See H. Rep. No. 102-384, Pt. 2, at 7, 12 (1992).

<sup>2</sup> 61 Fed. Reg. 43549 (Aug. 23, 1996).

<sup>3</sup> 43 Fed. Reg. 10272 (Mar. 5, 2010).

Congress intended for CHCs to increase access to affordable prescription drugs for low-income and uninsured patients.<sup>4</sup> However, federal law imposes few requirements with respect to how covered entities may use the revenue they generate from the 340B Program.<sup>5</sup> The 340B Program is regularly reviewed by the Government Accountability Office (GAO) and the Department of Health and Human Service Office of the Inspector General (OIG), both of which have highlighted issues with the program's integrity.<sup>6</sup> Specifically, in June 2018, GAO reported that not all covered entities share the benefits of discounted drug costs with their patients and determined that nearly half of the covered entities it reviewed failed to extend discounts to patients accessing medications at their contract pharmacies.<sup>7</sup>

Sun River Health, a 340B covered entity, serves more than 250,000 individuals through an extensive network of more than 400 providers located across 48 sites in the state of New York<sup>8</sup> and is ranked as having the tenth highest compensation among CHCs in the nation.<sup>9</sup> Therefore, to better understand how Sun River Health participates in the 340B Program and serves low-income and uninsured patients, I ask you to please respond to the following questions on a question-by-question basis, no later than **December 7, 2023**. All documents must be unredacted, produced in electronic form, and Bates stamped.

1. For each year beginning in 2018, please produce unredacted copies of Sun River Health's 340B pharmacy services agreements with contract pharmacies.
2. For each year beginning in 2018, please produce an excel document with a detailed accounting of the funds Sun River Health generated from the 340B Program. This excel document must include:
  - a. The total dollar amount generated from the 340B Program:
    - i. Per calendar year;
    - ii. Per payer (e.g. Medicare, Medicaid, Private Insurance, Uninsured);
    - iii. Site of service;
    - iv. Therapeutic Class of Drugs; and,
    - v. Name and address(es) of dispensing pharmacy.
3. Does Sun River Health have processes and procedures in place to audit how it uses 340B savings? If so, please describe these audit processes and procedures. If not, why not?

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<sup>4</sup> Karen Mulligan, *The 340B Drug Pricing Program: Background, Ongoing Challenges and Recent Developments*, USC SCHAEFFER (Oct. 14, 2021), <https://healthpolicy.usc.edu/research/the-340b-drug-pricing-program-background-ongoing-challenges-and-recent-developments/>.

<sup>5</sup> *Id.*

<sup>6</sup> See U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-480, DRUG DISCOUNT PROGRAM, FEDERAL OVERSIGHT OF COMPLIANCE AT 340B CONTRACT PHARMACIES NEEDS IMPROVEMENT, at 4 (June 18, 2018). See also *Examining HRSA's Oversight of the 340B Drug Pricing Program*, Hearing Before the H. Energy & Com. Comm., Subcomm. on Oversight & Investigations, 115th Cong. 1 (2017) (Testimony of Erin Bliss, Assistant Inspector General for Evaluation and Inspections, Dep't of Health & Hum. Servs., Off. of Inspector Gen.).

<sup>7</sup> See U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-480, DRUG DISCOUNT PROGRAM, FEDERAL OVERSIGHT OF COMPLIANCE AT 340B CONTRACT PHARMACIES NEEDS IMPROVEMENT (June 18, 2018).

<sup>8</sup> *Why Sun River?*, SUN RIVER HEALTH, <https://www.sunriver.org/why-sun-river> (last viewed Nov. 9, 2023).

<sup>9</sup> *Top 25 FQHCs by compensation*, DEFINITIVE HEALTHCARE (Ap. 10, 2023), <https://www.definitivehc.com/resources/healthcare-insights/top-federally-qualified-health-centers>.

4. For each year beginning in 2018, please produce an excel document with a detailed accounting of how revenue generated from the 340B Program is used, including:
  - a. Direct-to-patient savings;
  - b. Indirect patient savings; and,
  - c. Programs supported by revenue generated from the 340B Program.
  - d. For direct-to-patient and indirect patient savings please delineate between patients with private insurance, patients on public insurance (differentiating between Medicaid, Medicare, or another public insurance program), and uninsured patients.
5. Does Sun River Health give eligible patients access to 340B drugs at the discounted rate? If so, please describe the patient population (i.e., uninsured, low-income) that has access to these drugs.
6. Do you use a third-party administrator (TPA) to assist in administering the 340B Program?
  - a. For each year beginning in 2018, please produce unredacted copies of Sun River Health's TPA agreements.
  - b. For each year beginning in 2018, please provide the total amount of fees and/or revenue sharing Sun River has paid annually to its TPA. Please provide this information as a total dollar amount and as a percentage of the revenue generated from the 340B Program.
7. Please describe your patient population and the communities that you serve.
8. Please produce a copy of your drug cost-sharing policy for uninsured patients.

Thank you for your prompt attention to this matter.

Sincerely,



Bill Cassidy, M.D.

Ranking Member

U.S. Senate Committee on Health,  
Education, Labor, and Pensions