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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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May 10, 2012

Dr. Carol Garrison
President
University of Alabama Hospital
1802 6th Avenue South
Birmingham, AL 35233

Dear Dr. Garrison:

The 340B program, as established in the Public Health Service Act (PHSA), is a voluntary program that ensures that certain providers within our nation's health care safety net (covered entities) have access to outpatient drugs at or below statutorily defined ceiling prices.^[1] 340B discounts are available for outpatient drugs only. Drugs used in the inpatient setting do not qualify for savings under the 340B program. The original intent of the program was to extend the Medicaid drug discount to the most vulnerable of patients at PHS Clinics, those who are mostly, "medically uninsured, on marginal incomes, and have no other source to turn to for preventive and primary care services."^[2]

In its September 2011 report on the 340B program, the Government Accountability Office (GAO) notes an inadequate level of oversight by the Health Resources and Services Administration (HRSA) and a lack of necessary direction on program requirements. Of greatest concern is the GAO finding that, "the 340B program has increasingly been used in settings, such as hospitals, where the risk of improper purchase of 340B drugs is greater." As the improper use of the 340B program increases, so does the financial liability to the federal government. The intent and design of the program is to help lower outpatient drug prices for the uninsured. It is not intended to subsidize covered entities for providing inpatient services to those who are covered by private insurance, Medicare, or Medicaid. As such, I have been examining the 340B program.

On February 16, 2011, Donna Evans, R. Ph., Senior Pharmacist, with University of Alabama (UAB) Hospital gave a presentation at the 340B Annual Conference in San Diego, California. In this presentation Ms. Evans states that the purpose of the Purchasing Committee is, among other things, to "maximize savings opportunities."^[3] Ms. Evans' presentation goes on to state that UAB Hospital tracks the top drug expenses for "possible change in admission[s] process."^[4] As an example of this change in admission process, Ms. Evans lists the drugs Melphalan and Busulfan and states that the hospital

^[1] 42 U.S.C. 256b.

^[2] Public Health Clinic Prudent Pharmaceutical Purchasing Act, Committee Report to Accompany S. 1729, 102-259, Senate Committee on Labor and Human Resources, March 3, 1992.

^[3] Presentation by Donna Evans, February 16, 2011.

^[4] *Id.*

“change[d] treatment protocol/location.”^[5] Furthermore, Ms. Evans’ presentation discusses the, “discharge [of an IVIG patient] from [the] hospital to [a]Townhouse,” for the purpose of maximizing savings opportunities associated with the 340B drug discount provided to patients in an outpatient setting.^[6]

Ms. Evans’s presentation is deeply concerning. The recommendation to change an individual’s admissions status or their treatment can have serious health consequences and should be based on a medical determination of what is best for the patient. Altering a patients’ treatment from inpatient to outpatient merely to become 340B eligible not only endangers patients but such action violates the intent of the 340B program.

To help better understand your organization’s participation in the 340B program and Ms. Evans’ presentation at the 2011 340B Annual Conference, please provide the following documents and respond to the below inquires in writing by June 1, 2012:

1. How often have the practices outlined by Ms. Evans in her presentation been enacted?
 - a. Specifically, please list every change in admission where the hospital believed additional 340B savings were possible.
 - b. Please list the cost savings UAB Hospital achieved through such changes in the patient’s admissions status. Please include the collective amount and the amount per admissions change.
 - c. Please list each instance where UAB Hospital altered a change in treatment or patient care to achieve additional 340B savings. Please account for how the hospital would normally treat the patient verses the new treatment of care in order to maximize savings opportunities.
 - d. Please list the cost savings UAB Hospital achieved through the changes in treatment. Please include the collective amount and the amount per change in treatment.
 - e. Is UAB Hospital aware of any adverse health consequence as a result of any change in treatment? If so, please identify them.
2. Please describe the townhouse that is referenced in Ms. Evans’ presentation. Is this townhouse used for 340B patients only? Was the purchase of the townhouse made using revenue generated through the 340B program?
3. Please describe and provide documentation on UAB Hospital’s indigent care population and composition. What is UAB Hospital’s policy on charitable care? Please provide documents on UAB Hospital’s charitable care policies.

^[5] *Id.*

^[6] *Id.*

4. Please provide an outline of all revenue generated through your organization's participation in the 340B program since 2007. Please provide specific examples and supporting documents on how UAB Hospital has reinvested such revenue back into serving 340B patients.
5. How does UAB hospital ensure the discounts associated with the 340B program are passed to your poorest patients?
6. Has HRSA ever audited UAB Hospital's 340B program?

Maintaining the integrity of the 340B program is of the utmost importance, and I trust that you share my concerns. In responding to the aforementioned questions, please repeat each enumerated request followed by your response. If you have any questions regarding this request, please contact Erika Smith with the Senate Judiciary Committee at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is fluid and cursive, with the first name "Chuck" and last name "Grassley" clearly legible.

Charles E. Grassley
Ranking Member