

# Community Oncology Alliance Files Amicus Brief in 340B PBM Contract Pharmacy Dispute

*COA Warns Court That PBM Contract Pharmacies Have Taken Over 340B Program, Diverting Funds from Patients in Need*

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Today, the Community Oncology Alliance (COA) filed an Amicus Curiae brief with the United States Court of Appeals for the Seventh Circuit warning that contract pharmacies affiliated with pharmacy benefit managers (PBMs) have taken over and mutated the 340B Drug Pricing Program. In addition to diverting 340B discounts from patients in need, lucrative for-profit PBM contract pharmacy arrangements are fueling the broader PBM takeover of the nation's pharmaceutical system which harms all Americans through higher drug costs and unacceptable barriers to accessible, affordable health care.



Community Oncology Alliance Logo

In the brief, COA notes that the explosion in 340B contract pharmacy arrangements with for-profit PBMs has fundamentally mutated the program. As a result, billions of dollars in 340B discounts are retained by PBMs as profits, not passed on to the underserved patients in need. One estimate found that, collectively, the leading PBM-owned or affiliated contract pharmacies are conservatively estimated to retain upwards of \$2.58 billion in 340B discounts in 2022.

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For-profit PBM contract pharmacies siphon 340B discounts away from patients in need and the grantees that serve them”

*Ted Okon, COA*

• [Read COA's Amicus Curiae brief on 340B PBM Contract Pharmacies.](#)

“Parasitic, money-hungry PBMs have taken over and completely mutated the 340B program through contract pharmacy arrangements,” said [Ted Okon, executive director of COA](#). “For-profit PBM contract pharmacies siphon 340B discounts away from patients in need and the grantees that serve them, and instead line the balance sheets of some of the largest, most profitable corporations in our country.”

COA believes that the 340B is a critically important program for Federal grantees, community and disease-specific health clinics, and the true safety-net hospitals that rely on the drug discounts it provides to treat America’s most vulnerable patients. However, abuse of the 340B program by some large hospital corporations and for-profit PBMs has hurt, not helped patients, particularly patients with cancer treated in community oncology practices. [Study after study](#) has shown that abuse of the 340B program means the poor, uninsured, and underinsured patients it was meant to serve are not benefiting, and patients with cancer and other serious diseases are left with more expensive care. If not addressed through limits on contract pharmacy arrangements, as under review in this case and other critical reforms, the 340B program will continue to harm patients.

“The 340B program exemplifies how good ideas, no matter how well-intended, can easily go bad if they fall into the wrong hands and are abused. PBMs have found their newest victims in the 340B program, and patients with cancer and other serious diseases are left suffering because of it,” said Okon.

COA’s amicus brief focuses on the broken world of PBM 340B contract pharmacies and its impact on patients, but the outcome of this case alone will not solve our nation’s systemic problems. Drug prices and cancer care costs are far too high and require action from manufacturers. However, policymakers must also advance comprehensive solutions, including addressing drug payment and reimbursement schemes, site of service payment parity, and other drug cost drivers. Stopping the out-of-control 340B contract pharmacy scheme has the potential to put a meaningful check on the forces impacting patients.

The case is *Eli Lilly and Company et al. v. Xavier Becerra et al.*, case number 21-3128, in the U.S. Court of Appeals for the Seventh Circuit.

Read COA’s Amicus Curiae brief on 340B PBM Contract Pharmacies at <https://communityoncology.org/wp-content/uploads/2022/06/COA-340B-Contract-Pharmacy-Amicus-Brief-21-3128-3405.pdf>.

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About the Community Oncology Alliance: COA is a non-profit organization dedicated to advocating for community oncology practices and, most importantly, the patients they serve. COA is the only organization dedicated solely to community oncology where the majority of Americans with cancer are treated. The mission of COA is to ensure that patients with cancer

receive quality, affordable, and accessible cancer care in their own communities. More than 5,000 people in the United States are diagnosed with cancer every day and deaths from the disease have been steadily declining due to earlier detection, diagnosis, and treatment. Learn more at [www.CommunityOncology.org](http://www.CommunityOncology.org). Follow COA on Twitter at [www.twitter.com/oncologyCOA](https://twitter.com/oncologyCOA) or on Facebook at [www.facebook.com/CommunityOncologyAlliance](https://www.facebook.com/CommunityOncologyAlliance).

Andrew Lovejoy  
Community Oncology Alliance  
[email us here](#)

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