



## Groundbreaking complaint filed in Arkansas against RX manufacturer

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*Action at the Arkansas Insurance Department invokes 2021 state law passed with support of CHCA, hospitals, pharmacists*

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A complaint filed this week urges the state of Arkansas to hold a pharmaceutical manufacturer accountable for violating a first-of-its-kind state law.

The law protects drug distribution and access for low-income and vulnerable patients across the state. Affected are patients seeking medication at pharmacies contracting with certain health care providers, including Community Health Centers (CHCs) and hospitals.

The complaint, under [Act 1103 of 2021](#), asks Arkansas Insurance Commissioner Alan McClain to investigate and order the rightful drug distribution be restored under what's known as the 340B program.

"We're hopeful the Arkansas Insurance Department will move swiftly in favor of Arkansas health care providers and their patients," said Lanita S. White, PharmD, chief executive officer of Community Health Centers of Arkansas (CHCA). "Arkansas is leading the way nationally in demonstrating the resolve to protect the 340B program. This program was created by Congress to help rural and low-income Americans access their often life-saving medication. We cannot allow the pharmaceutical industry to prioritize profits over people."

The [complaint](#) was filed by White River Medical Center, a hospital in Batesville, against Novo Nordisk Inc. of Plainsboro, N.J. According to the complaint, Novo Nordisk in January 2021 began restricting distribution of drugs under the 340B program through pharmacies that contracted with White River Medical Center, which is part of White River Health.

Patients have been forced to either change medication or change pharmacies. The hospital has lost more than \$1 million in contract pharmacy revenue as a result of Novo Nordisk's restrictions.

"From our standpoint, our complaint is a straightforward effort to follow the law as passed by the Legislature," said Maggie Williams, PharmD, executive director of pharmacy services at White River Health. "This boils down to protecting the interests of our hospital and, most importantly, our patients. So, we thought it appropriate to ask the Insurance Department to enforce its rule. We wholeheartedly agree that Act 1103 is constitutional and sound public policy."

In September 2021, in U.S. District Court in Little Rock, the Pharmaceutical Research and Manufacturers of America (PhRMA) filed suit against the Insurance Department and Attorney General Leslie Rutledge in her official capacity. PhRMA seeks to strike the section in Act 1103 that protects 340B distribution at contract pharmacies.

CHCA has intervened in the lawsuit to protect the interests of CHCs and their patients. Joining CHCA in the motion to intervene was Piggott Community Hospital, a critical access hospital dependent on contract pharmacies to serve their patients.

The case is pending before U.S. District Judge Billy Roy Wilson. All briefs and reply briefs have been filed. A decision could come soon.

Starting in the summer of 2020, pharmaceutical manufacturers placed multiple conditions on 340B.

The restrictions not only harm patients but cut revenue from CHCs and hospitals. The funds from 340B are used to operate medical programs that benefit at-risk and rural Arkansans.

Responding to the manufacturers' actions, the Legislature overwhelmingly passed, and Gov. Asa Hutchinson signed Act 1103 during the 2021 legislative session. CHCA, the Arkansas Pharmacists Association, and the Arkansas Hospital Association each supported the legislation.

Notably, 340B discounts are not funded by the government or taxpayers. Congress set up 340B as a condition for the pharmaceutical industry to participate in the Medicaid and Medicare program. In exchange for participation in that lucrative market, they provide discounts through 340B.

The firm of Powers Pyles Sutter & Verville PC of Washington represents CHCA and White River Health.

**About: CHCs** are non-profit organizations funded by patient revenue and federal grants meant to expand health care access for low-income, minority, and rural populations. CHCs provide many services including primary care, dental, behavioral health, and health education. CHCA provides advocacy, training, and support for CHCs in Arkansas.

Altogether, **12 CHCs** in Arkansas (including 11 member CHCA organizations) serve more than **285,000 people** a year at more than **190 sites**. Nationally, nearly **1,400** CHCs serve more than **30 million patients** a year.

**White River Medical Center**, part of White River Health, is a non-profit, acute care hospital, serving patients through north-central Arkansas. In 2021, White River provided **\$5.1 million** in charity care. For the last five years, it has been named one of the top 100 rural and community hospitals in the country by the Chartis Center for Rural Health.

**For more information on Community Health Centers in Arkansas**, please visit:

<http://www.chc-ar.org/>

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