

# MAINE STATE LEGISLATURE

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**Maine Corrections Pharmacy Focus Group**

**INTERIM REPORT**

TO THE

**JOINT STANDING COMMITTEES FOR**

**APPROPRIATIONS AND FINANCIAL AFFAIRS**

**AND**

**HEALTH AND HUMAN SERVICES**

**JANUARY 15, 2009**

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**INTERIM REPORT**  
**OF THE**  
**MAINE CORRECTIONS PHARMACY FOCUS GROUP**

**A. Introduction**

In accordance with Section 2 of P. & S.L. 2007, ch. 43, the Maine Corrections Pharmacy Focus Group submits the following Interim Report to the Legislature's Joint Standing Committees for Appropriations and Financial Affairs and Health and Human Services.

**B. Executive Summary**

The legislatively established Maine Corrections Pharmacy Focus Group has begun its work of identifying cost effective means of furnishing prescription drugs to inmates of State correctional facilities and County Jails, including an analysis of the cost-effectiveness of purchasing drugs for corrections through the so-called "section 340B program." To date, the Focus Group has determined that savings are potentially available to Maine correctional facilities through the 340B program, but complexities involved with partnering with 340B entities must be explored to ascertain the ability to utilize this approach and the cost-effectiveness of that program. However, the Group believes that, even aside from utilization of the 340B program, savings should be attainable in the purchase of drugs by State and County correctional facilities through various other means, such as increased use of group purchasing contracts, participating in specialty drug RFPs, and/or use of expertise in drug purchasing and auditing. For example, participation in the upcoming Department of Health and Human Services RFP could potentially produce savings of 2-5% over current costs for specialty drugs. At this juncture, the Focus Group anticipates that it will, at a minimum, be able to recommend targeted approaches to the purchase of drugs by State and County correctional facilities that will result in cost savings while ensuring the provision of quality care for inmates.

This report will describe the work of the Focus Group to date, the preliminary findings of the Focus Group, and a partial list of the work to be done by the Focus Group in 2009.

**C. The Legislative Mandate**

In 2008, the Legislature enacted P. & S.L. 2007, ch. 43, "AN ACT to Reduce the Cost of Prescription Drugs Purchased by the State and Counties by Using Section 340B of the Federal Public Health Service Act."

Chapter 43 provided in pertinent part:

The Department of Corrections shall convene a working group . . . [to] . . . identify opportunities to provide prescription drugs through Section 340B of the federal Public Health Service Act . . . to inmates and employees in youth correctional facilities, county jails and state prisons, where cost effective and practicable. The Department of Corrections shall report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters as necessary to incorporate any recommendations into future contracts, but at a minimum an interim report must be provided to both joint standing committees by January 15, 2009 and a final report must be provided to both committees by January 15, 2010.

#### **D. The Section 340B Drug Pricing Program**

The 340B Drug Pricing Program (the “340B Program”) resulted from the enactment of Public Law 102-585, the Veterans Health Care Act of 1992, which is codified at section 340B of the Public Health Service Act. The 340B Program requires drug manufacturers to provide discounts or rebates to a specified set of U.S. DHHS assisted programs and hospitals that meet the criteria in the Social Security Act for serving a disproportionate share of low income patients.

#### **E. The Maine Corrections Pharmacy Focus Group**

In accordance with the Legislature’s mandate, the Department of Corrections appointed a working group to perform the study and make the recommendations required by Chapter 43. The working group – the “Maine Corrections Pharmacy Focus Group” – is a collaboration of State and County correctional systems, section 340B covered entities, private advocates for low-income people, and state officials with experience and training in health care, including pharmacy and mental health.

The members of the Focus Group are as follows:

##### **Co-Chairs:**

Sheriff Glenn Ross	Penobscot County Sheriff’s Office
Katherine E. Plante	Director of Health Care Services Department of Corrections

##### **Members:**

Joseph Fitzpatrick, Ph.D.	Director of Behavioral Health Maine Correctional Center
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Sarah Gagne Holmes	Executive Director Maine Equal Justice Partners
Dana Hunter, R.Ph.	Pharmacy Operations Manager Eastern Maine Medical Center
Kevin Lewis	Executive Director Maine Primary Care Association
Richard Wurpel	Designee of Sheriff Randall Liberty Kennebec County Sheriff's Office
Denise V. Lord	Associate Commissioner Department of Corrections
Michael Vitiello	Designee of Sheriff Maurice R. Ouellette York County Sheriff's Office
Steven Sherrets, Ph.D.	Mental Health Criminal Justice Manager Maine Departments of Corrections and Health and Human Services
Rep. Sharon Treat	Representative, Maine Legislature
Jude Walsh	Special Assistant Office of the Governor

#### **F. The State Board of Corrections' Pharmacy Focus Group**

By P.L. 2007, ch. 653, the Legislature established the State Board of Corrections. The Board consists of 9 members appointed by the Governor. 34-A M.R.S.A. § 1802. The purpose of the Board is

to develop and implement a unified correctional system that demonstrates sound fiscal management, achieves efficiencies, reduces recidivism and ensures the safety and security of correctional staff, inmates, visitors, volunteers and surrounding communities.

34-A M.R.S.A. § 1801(1). The Board is statutorily required to develop, and to report to the Legislature regarding, goals "to guide the development of and evaluate the effectiveness of a unified correctional system." 34-A M.R.S.A. § 1801(2). For additional information regarding the Board, see <http://www.maine.gov/corrections/BOC/purpose.htm>.

In Fall 2008, the State Board of Corrections established a number of focus groups to assist the Board in its work. Among those focus groups was one formed to study use and

purchase of medications by and for inmates at State and County correctional facilities. Because at that time the section 340B work group mandated by P. & S.L. 2007, ch. 43, had already been appointed and included representatives of State and County correctional facilities, it was recommended that the Section 340B work group appointed by the Department of Corrections also serve as the State Board of Corrections' Pharmacy Focus Group. That recommendation was agreed to, and the Maine Corrections Pharmacy Focus Group now serves as both the work group studying Section 340B issues as required by P. & S.L. 2007, ch. 43, and the State Board of Corrections' Pharmacy Focus Group.

### **G. The Process**

Since its appointment in June 2008, the Corrections Pharmacy Focus Group has met five times: July 17, August 21, September 18, October 16, and December 18, 2008. Additionally, the Focus Group has organized and held a "Section 340B Workshop," discussed below. A committee of the Focus Group has also met to develop recommendations on the content of this report.

The Focus Group will continue its meeting schedule throughout 2009 as necessary to fulfill its legislative mandate.

### **H. The Goals**

At its first meeting, the Corrections Pharmacy Focus Group identified goals, both primary and preliminary, to guide it in its work. Those goals are as follows:

#### **Primary Goals**

1. Lower Costs – Decide upon a recommendation that will, in fact, lower costs.
2. Quality of Care and Service – Ensure that the Focus Group's recommendations (i) will not result in a diminution in the quality of care or service, and (ii) ideally will result in improvements in care and service. Applications of this goal include:
  - a. Formulary compliance.
  - b. Provider prescribing practices.
3. Community-Based Health Providers – build partnerships with them.
  - a. Important as to both existing incarcerated populations and as to inmates transitioning back to the community.
4. Identify Complementary Investments that can be made and tools that can be developed to augment the system recommended. (E.g., EMR/EHR).

5. Unification and Board of Corrections – Ensure that the Focus Group’s recommendations dovetail with the goals of unification of Maine’s correctional facilities and with the role of the new State Board of Corrections.

### **Preliminary Goals**

1. Understand the current system for delivery of health care and pharmaceuticals in both State and County facilities.
2. Understand the Section 340B system. E.g.:
  - a. Who are, who can be, and who should be 340B providers?
  - b. What restrictions and limitations exist on use of 340B entities?
3. Understand the true costs of whatever proposal is recommended.
  - a. Understand what the current costs are.
  - b. Hidden costs may attend a particular system or proposal. For example:
    - (i) A provider’s administrative costs may increase substantially with a dramatic increase in population served.
    - (ii) Additional demands in managing contracts may result in increased costs.
4. Understand the potential for savings from changes in purchasing practices and identify the greatest opportunities for such savings.

### **I. The Information to be Gathered**

The Corrections Pharmacy Focus Group recognized early on that in order to make informed recommendations relative to the possible purchase of pharmaceuticals for correctional facilities through Section 340B entities, a substantial amount of information would have to be obtained and analyzed. At its first meeting, the Board identified numerous categories of information it would need to obtain. Tab 1 sets forth those categories of information and specifies whether and to what extent the Focus Group has obtained the information or assistance to date.

The Focus Group will continue to gather the information and assistance it needs to develop sound recommendations as to the use of the 340B program and pharmaceutical cost savings generally in Maine corrections.

### **J. The “Section 340B Workshop”**

As a further aid in gathering key information, the Corrections Pharmacy Focus Group invited national speakers to discuss the application of Section 340B in a correctional setting.



(See Tab 2).<sup>1</sup> Held on October 24 at the Maine Medical Association offices in Augusta, the workshop was sponsored by the Maine Primary Care Association, the MeCDC Office of Rural Health and Primary Care, and the Maine Department of Corrections.

The speakers at the Workshop were:

**Ann Mack Perham**, Regional Vice President, Correctional Medical Services

**Ellen H. Yankellow**, President & CEO, Correct Rx Pharmacy Services, Inc.

**Jeffrey R. Lewis**, President, Heinz Family Philanthropies

**William H. von Oehsen III, Esq.**, President and General Counsel, Safety Net Hospitals for Pharmaceutical Access; Principal, Powers Pyles Sutter & Verville, P.C.

One of the extraordinary benefits of the Workshop was that one of the presenters, Jeffrey Lewis, President of Heinz Family Philanthropies and a nationally recognized expert on the Section 340B program, stated that the Heinz Foundation, at no cost, would act as a consultant to the Corrections Pharmacy Focus Group to assist the Focus Group in determining how best to utilize 340B entities in the Maine correctional setting.

## **K. Preliminary Findings**

Based upon its investigation and analysis to date, the Maine Corrections Focus Group has made the following preliminary findings:

### **1. Reliance on 340B Program Generally**

Savings are potentially available for State and County correctional facilities in purchasing drugs through 340B entities. However, because of the complexities involved in establishing a partnership with a 340B entity, particularly in the area of corrections, further analysis is needed to determine whether and to what extent partnership with 340B entities may be beneficial in State and County corrections.

Achieving optimal overall cost-savings on the purchase of drugs at correctional facilities may well result from use of the 340B program in a targeted way – i.e., obtaining certain drugs directly from a correctional pharmacy contractor, obtaining certain other drugs from a 340B entity, and perhaps other drugs from a third source.

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<sup>1</sup> Tab 2 contains the agenda for the 340B workshop, a list of the attendees at the workshop, and a summary of the workshop that was distributed to attendees. Hard copies of PowerPoint presentations used by speakers at the workshop are available on request.

## **2. Special Issues Attending Use and Acquisition of Drugs in a Correctional Setting**

Because of the nature of the population in a correctional facility, special issues attend the cost, acquisition, and handling of drugs for inmates.

Incarcerated individuals experience a higher prevalence of infectious diseases, comorbidity, and addictive problems than the population as a whole. Inmates generally use a higher percentage of the more expensive drugs than the population as a whole. Incarceration of a single inmate with a catastrophic illness (e.g., HIV) can wreak havoc with a correctional facility's – especially a County Jail's – budget for drugs. The fact that inmates tend to use the most expensive drugs suggests an opportunity to achieve savings on these drugs through various vehicles (e.g., more group purchasing than exists now; Section 340B; or RFPs for specialty drugs.)

Because of the secure environment, unique packaging is required for drugs in a correctional setting. Glass and metal cannot be used. Blister packs are required much more frequently for inmates than for the population as a whole.

Formularies for prescribing drugs pose special issues for corrections in Maine, requiring further analysis and recommendations by the Focus Group. Formularies vary between DOC facilities and County Jails, and between and among the County Jails. Adoption of a single, standardized formulary among correctional facilities would be advantageous, because, for example, a standard formulary would facilitate movement of an inmate with medication needs from facility to facility. Moreover, adoption of a standard formulary should not pose problems in treating inmates, because off-formulary drugs could still be prescribed as needed.

Additionally, the Focus Group's exploration as to formularies to date suggests that savings could potentially be realized by the adoption of standard practice guidelines that would encourage practitioners to prescribe from the formulary. The Focus Group will explore this issue further as part of its work in 2009.

## **3. Difficulties that May Attend a Correctional Facility's Partnering with a 340B Entity**

Eligibility to purchase outpatient drugs at Section 340B prices is limited to specific types of clinics and hospitals.<sup>2</sup> For certain correctional facilities, a difficulty that may attend partnering with a 340B entity is location, or proximity of the health care provider to the correctional facility. A map of Maine showing the location of current 340B entities in relation to Maine State and County correctional facilities is attached as Tab 3.

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<sup>2</sup> Entities eligible to purchase drugs under the 340B program are: all HRSA-assisted health centers; certain disproportionate share hospitals; Federally Qualified Health Center Look-Alikes; Ryan White HIV/AIDS programs including AIDS Drug Assistance Programs; Comprehensive Hemophilia Treatment Centers; Indian Health Service tribal organizations and Urban Indian programs; Centers for Disease Control and Prevention assisted sexually transmitted disease and tuberculosis clinics; and Title X Family Planning Clinics.

Among the eligible entities more likely to be seen as partnering with Maine correctional facilities are Federally Qualified Health Centers<sup>3</sup> (“FQHCs”) and disproportional share hospitals (“DSH hospitals”).

For FQHCs, a potential difficulty in partnering with a Maine correctional facility relates to protection from liability. If the “scope of project” of an FQHC includes correctional facilities located within the FQHC’s service area, FQHC providers will enjoy the coverage of the Federal Tort Claims Act (“FTCA”) with respect to potential malpractice liabilities that might arise in the course of the 340B relationship. The Bureau of Primary Health Care of the Health Resources and Services Administration (“HRSA”) is currently evaluating whether the scope of project of an FQHC includes correctional facilities located within the FQHC’s service area. The outcome is important to FQHCs’ economic evaluation of potential partnership with Maine’s correctional facilities. If HRSA rules that FQHCs cannot include correctional facilities within their service area as part of their scope of project, then, in order to partner with correctional facilities, FQHCs would have to purchase separate malpractice coverage for the provision of medical care to the inmates, adding to the cost of care and eroding potential 340B savings. On the other hand, if HRSA concludes that the provision of correctional care fits within FQHCs’ scope of project, then the provision of the care to inmates would fall within the coverage of the Federal Tort Claims Act (assuming that the FQHC has applied for and been “deemed” for this coverage), thereby eliminating the need to purchase insurance. For more information about FQHCs and the FTCA, see <http://bphc.hrsa.gov/policy/pal0805.htm>.

A potential difficulty arising from a Section 340B partnership with a DSH hospital arises from the possibility that the hospital could lose its DSH status. Thus, if a correctional facility were to partner with a DSH hospital to provide medical services to its inmates in order to obtain Section 340B cost savings and the hospital were to lose its DSH status, the correctional facility would lose the 340B cost savings and would experience disruption in medical care if it then needed to shift to a new medical provider.

The *willingness* of eligible 340B entities to partner with and provide health care services to State or County correctional facilities is a necessary pre-condition to any 340B arrangements. The Focus Group has not yet determined whether eligible 340B entities will be willing to do so.

Finally, a partnering relationship that might work between a 340B entity and, for example, a County Jail might not work between the same 340B entity and a State facility, or vice versa. Further examination may show that the different correctional systems require different solutions to achieve cost savings in purchasing drugs.

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<sup>3</sup> FQHCs include all organizations receiving grants under section 330 of the Public Health Service Act, certain tribal organizations, and FQHC Look-Alikes. FQHCs qualify for enhanced reimbursement from Medicare and Medicaid, as well as other benefits. FQHCs must serve an underserved area or population, offer a sliding fee scale, provide comprehensive services, have an ongoing quality assurance program, and have a governing board of directors.

#### **4. Guidelines Governing a Correctional Facility’s Partnering with a 340B Entity**

In evaluating the benefits and challenges of a correctional facility’s partnering with a 340B entity, the Corrections Pharmacy Focus Group must be mindful of the federal guidelines governing such partnerships. This section reflects relevant guidelines and considerations identified to date.

To obtain cost savings under the Section 340B drug program, a correctional facility must obtain medical services for its inmates from a 340B covered entity. The 340B entity, in turn, may supply drugs to the correctional facility from either its own in-house pharmacy (if it has one) or by contracting with a pharmacy or drug company to provide the drugs. The necessary “340B” designation attaches to the provider of the health services, not to the pharmacy that provides the drugs.

Furthermore, for a correctional facility to realize savings under the 340B drug program, the 340B entity with which it must partner must be able to provide *all* primary health services to the correctional facility, not merely specialty services such as mental health.

Importantly, to qualify for savings under Section 340B, a correctional facility does not have to purchase *all* of its drugs from a 340B entity. 340B is not an “all or nothing” program. The correctional facility can purchase certain types of drugs (e.g., drugs for mental illness) from the 340B entity, and the remainder of its drugs from a price-competitive non-340B source. In that case, of course, the 340B savings would be realized only on the drugs purchased from the 340B entity. A primary goal of the Focus Group will be to determine the right partners for purchase of particular drugs for a correctional facility or system to achieve optimal overall savings.

If a correctional facility partners with a 340B entity, the 340B entity does not have to own or possess exclusively the inmates’ medical records. However, the 340B entity must “maintain” a set of medical records for each inmate. Initial investigation suggests that a distinct operational benefit, and long-term cost savings, may result from development of an Electronic Medical Record system linking the correctional facility and a 340B entity.

#### **5. Existing State/County Arrangements for Procuring Drugs**

The Focus Group to date has analyzed the current contract between the DOC and its pharmaceutical provider (Correct Rx) and the contracts of the seven County Jails that piggy-back on the DOC’s contract with Correct Rx. That analysis shows that the DOC and the seven Jails are obtaining very competitive pricing via the Correct Rx contract.

Although the DOC and the seven County Jails that contract with Correct Rx are obtaining favorable pricing, additional savings may be available to these facilities under Section 340B with respect to specialty drugs (e.g., those for mental illness or certain catastrophic illnesses) if the difficulties in partnering with a 340B entity can be resolved. Aside from reliance on the Section 340B program, these facilities may also be able to realize additional savings by participating in

the specialty drug RFP soon to be released by the Department of Health and Human Services and/or utilizing a drug purchasing expert and auditing capacity.

Of the County Jails who do not participate in the State's contract with Correct Rx, some do not have contracts for their purchase of drugs. As part of their work in 2009, the Focus Group will obtain the contracts, or obtain information regarding the arrangements where there are no contracts, of the remaining County Jails who purchase drugs independently of the DOC's contract with Correct Rx. The Focus Group anticipates that at least some of these remaining County Jails are not obtaining optimal pricing. Because County Jail pharmacy contracts tend to be short in (temporal) length, immediate modifications could possibly be made in the drug procurement arrangements of the eight County Jails who do not contract with Correct Rx to achieve initial savings before issues as to partnering with 340B entities are fully resolved. Notably, even in the absence of a partnership with a 340B entity there appears to be potential for savings in the purchase of drugs for at least half of the County Jails (i.e., those who do not participate in the DOC's contract with Correct Rx).

Also as part of its work in 2009, the Focus Group will explore whether, and to what extent, additional County Jails should participate in the Correct Rx contract.

Finally, the Focus Group has found that there are only a very limited number of in-state personnel with the expertise to analyze drug purchasing contracts and arrangements in Maine corrections. The Focus Group will assess this limitation in 2009 and make any appropriate recommendations.

#### **L. Action to be Taken in 2009**

Given the complexities and the multi-faceted but essential analysis, substantial work remains for the Corrections Pharmacy Focus Group. In the upcoming year, the Focus Group will continue its work in determining how the 340B program can be utilized to achieve cost savings for State and County correctional systems. The Focus Group's work will include the following:

1. Obtain and evaluate the contracts (or, in the absence of contracts, information regarding the arrangements) that exist between (i) those County Jails that do not participate in the DOC contract with Correct Rx for pharmaceuticals and pharmacy services, and (ii) the pharmaceutical suppliers for those County Jails.
2. Obtain and evaluate utilization data regarding the type, cost, and amount of drugs being used by inmates at each State and County correctional facility. This analysis will enable the Focus Group to determine, among other things, those drugs as to which savings might be realized through partnership with a 340B entity.
3. Enlist the pro bono services of Jeffrey Lewis of the Heinz Family Philanthropies as an ongoing consultant on implementation of the 340B program in Maine State and County corrections.

4. Work through the challenges attending partnership with a 340B entity in order to be able determine whether, in fact, cost savings can be achieved via such a partnership and, if so, the nature and extent of that partnership.
5. Determine whether State and County corrections could benefit from additional expertise in analyzing drug purchase contracts and arrangements, and, if so, recommend appropriate action.
6. Develop and apply an appropriate methodology to determine whether a given scenario for the purchase of drugs (including type of drug(s), cost, source of purchase, attendant administrative costs) would produce true cost savings for the correctional facility.
7. Determine whether and to what extent State and County correctional facilities can utilize and gain cost savings through the Specialty Drug RFP soon to be issued by the Maine Department of Health and Human Services.
8. Ultimately, for all correctional facilities, determine the optimal recommended mix of sources for purchases of drugs.
9. If partnering with a 340B makes sense in terms of cost savings and quality of care, determine whether 340B entities would be willing to partner with State and/or County correctional facilities.
10. If partnering with a 340B makes sense, develop a recommendation(s) as to maintenance of inmates' medical records by the 340B entity.
11. Determine whether a standard formulary should be adopted for State and County facilities, or jointly for both, and, if so, whether an organization with appropriate expertise can be engaged to assist in the development of a standard formulary.
12. Obtain additional input from outside experts and additional information as needed.
13. Determine whether any different distribution models (e.g., use of particular dispensing machines) can contribute to cost savings.
14. Determine whether eligibility screening for Medicaid services at County Jails can be improved to achieve savings on drugs through Medicaid.
15. Periodically review the membership of the Focus Group to ensure that true stakeholders are participating in the process.
16. Develop recommendations, as necessary and appropriate, to the Maine Legislature, the Department of Corrections, the County Jails, and the State Board of Corrections.
17. Submit the Focus Group's Final Report to Joint Standing Committees for Appropriations and Financial Affairs and Health and Human Services on or before January 15, 2010.

Respectfully submitted on behalf of the  
Maine Corrections Pharmacy Focus Group

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Katherine E. Plante, Co-Chair

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Sheriff Glenn Ross, Co-Chair

**Tab 1**

**Information to be Obtained by Maine Corrections Pharmacy Focus Group**

**July 17, 2008**

<b>Information to Be Obtained</b>	<b>Status</b>
<p>1. Existing contracts with providers, including:</p> <p>a. DOC's contract with the medical services provider for state facilities;</p> <p>b. DOC's contract with the pharmacy services provider for state facilities;</p> <p>c. County Jails' contracts with medical services providers to the County Jails; and</p> <p>d. County Jails' contracts with pharmacy providers to the County Jails.</p>	<p>Done, except for pharmacy contracts (arrangements) for County Jails who do not contract with Correct Rx.</p>
<p>2. Maine 340B Providers – Obtain/prepare a list of existing 340B entities in Maine by county.</p>	<p>Done</p>
<p>3. Rules Governing Possible Use of 340Bs</p> <p>a. Generally what are the rules governing (i) 340Bs generally and (ii) DOC and County Jail possible use of 340Bs</p> <p>b. Can an out-of-state 340B provider be used?</p> <p>c. What are the rules as to the physician-patient relationship?</p> <p>d. What Maine statutes and rules may apply to reliance on a 340B? (E.g.: Board of Pharmacy rules?)</p>	<p>Generally done (see, e.g., subsection K(4) of Interim Report). Additional rules and guidelines to be ascertained as further work suggests.</p>
<p>4. <u>Services Provided by 340Bs</u></p> <p>a. How are drugs delivered?</p> <p>b. How are drugs packaged? (e.g., in blister-packs?)</p> <p>c. 24-Hour availability?</p> <p>d. Are the services provided by 340Bs consistent with the needs of Maine correctional facilities, both State and County?</p>	<p>To be done</p>
<p>5. Identify those circumstances at the County Jails and State facilities that would affect, or could be affected by, the use of 340Bs.</p>	<p>Partially done; to be further examined.</p>
<p>6. Programs and Experience in Other States</p> <p>a. Obtain details from the programs in other states that may assist in our evaluation</p> <p>b. Identify specific programs in other states that may be helpful in evaluating Maine's use of 340Bs</p>	<p>Partially done via information obtained from out-of-state experts to date. Focus Group will continue to obtain this information, especially via consultation with Jeffrey Lewis.</p>
<p>7. Obtain input from experts on 340B Issues</p> <p>a. E.g., from Office of Pharmacy Affairs, Safety Net Hospitals for Pharmaceutical Access, hospitals</p>	<p>Substantially done (see, e.g., section J of Interim Report). Focus Group will continue to draw on 340B expert consultation.</p>



<p>8. Determine the methodology for comparing a County Jail's current pricing for drugs with proposed new pricing in order to ensure that the latter produces cost-savings</p> <p>a. Ask other states what methodology(ies) they are using to ensure that they are in fact saving money with the new system.</p> <p>b. One difficulty in comparing a facility's pharmaceutical costs from year to year: periodic spikes in use of high-priced drugs</p> <p>c. Consider issuing a separate RFP for the high-priced drugs</p>	<p>To be done.</p>
<p>9. Determine what action is needed (who must act) on the Work Group's ultimate recommendations?</p> <p>a. What action will require legislation?</p> <p>b. What action will require rulemaking?</p> <p>c. What action will require Board of Corrections approval?</p>	<p>To be done when recommendations are identified.</p>
<p>10. Determine what <u>liabilities and risks</u> are associated with 340Bs?</p> <p>a. What liabilities and risks attend a facility's use of a 340B?</p> <p>b. How are liabilities and risks allocated between a 340B entity and a correctional facility?</p> <p>c. How can a correctional facility address potential liabilities associated with use of a 340B entity?</p>	<p>Partially done (see, e.g., subsection K(3) of Interim Report). Focus group will continue to identify and evaluate risks and liabilities as it assesses use of 340Bs.</p>
<p>11. Resolve as to inmates' medical records:</p> <p>a. Who owns the prisoner's medical record?</p> <p>b. What legal and practical issues attend ownership?</p> <p>c. What requirements as to medical records attend use of Section 340B entities?</p>	<p>Done, for the most part. Focus Group will explore recommendations regarding implementation as to 340Bs' maintenance of inmates' medical records.</p>



# Maximizing 340B Utilization Workshop

## (List of Attendees)

Name	Company
Larry Amberger, Esq.	Correctional Medical Services
Kelene Barrows	Maine Department of Corrections
Lisa Belanger	Portland Department of Health and Human Services
Gary Campbell	Correctional Medical Services
Sheriff Mark Dion	Cumberland County Sheriff's Office
Charles Dwyer	MeCDC, Maine Department of Health & Human Services
Joseph Fitzpatrick, Ph.D.	Maine Department of Corrections
Carrie Frost	Portland Department of Health and Human Services
Maryagnes Gillman	Sacopee Valley Health Center
Marion Hylan Barr, Esq.	Office of Policy & Legal Analysis
Sara Gagne-Homes	Maine Equal Justice
Chris Hastedt	Maine Equal Justice
Dana Hunter	Eastern Maine Medical Center
Connie Jordan	Behavioral Health Resources
Tim King	State Board of Corrections
Bob Kingman	Crisis and Counseling Centers
Rebecca Lamey	Maine General
Kevin Lewis	Maine Primary Care Association
Melissa Libby	Maine Primary Care Association
Denise Lord	Maine Department of Corrections
Ann Mack Perham	Correctional Medical Services
Sally McKinnon	Regional Medical Center at Lubec
William H. von Oehsen, Esq.	Safety Net Hospitals for Pharmaceutical Access; Powers Pyles Sutter & Verville, P.C.
Kathy Plante	Maine Department of Corrections
Cindy W. Pullyard	Regional Medical Center Lubec
Sheriff Glenn Ross	Penobscot County Jail
Martin Sabol	Portland Department of Health and Human Services
Michael Seitzinger, Esq.	Kozak & Gayer, P.A.
Hui Seo	Correct Rx
Steven Sherrets, Ph.D	Maine Department of Health & Human Services - Maine Department of Corrections
Drew Stevenson	Down East Community Hospital in Machias
Rep. Sharon Treat	Maine State Representative
Michael Vitiello	York County Jail
Jude Walsh	Office of the Governor
Rich Wurpel	Kennebec County Jail
Ellen Yankellow	Correct Rx

Tab 2

# Maximizing 340B Utilization

October 24, 2008

## A Summary of the Workshop – Its Background and Purpose

### The Genesis

In 2007, the Maine Legislature, via P.&S.L. 2007, ch. 43, required the creation of a public-private work group to identify opportunities to provide prescription drugs through Section 340B to inmates and employees of state and county correctional facilities where doing so would be cost effective and practicable. The Legislature also mandated that the work group consider all health facilities in the state potentially eligible for designation as covered entities under Section 340B.

### The Work Group

The work group mandated by the Legislature has been established and has been meeting since July. The work group is comprised of members from the field of corrections, the field of health care, and other private interest groups and public agencies. The names of its members appear at the end of this summary.

Shortly after the legislatively required work group was created, the new Maine Board of Corrections (created to develop and implement a unified correctional system) established a number of correctional focus groups, including a pharmacy focus group. The Board of Corrections pharmacy focus group has been merged into the legislatively required work group, and the single merged group (the “Corrections-340B Work Group” or the “Work Group”) is now examining not only use of 340Bs in Maine corrections but other aspects of pharmacy in corrections as well.

Among the Work Group’s first orders of business was to seek useful information to allow it to make an informed judgment as to the role of 340Bs in Maine corrections. Today’s conference is part of that information gathering process.

### The Goals

The Corrections-340B Work Group has established the following tentative goals pending further study:

1. Lower Costs – Decide upon a recommendation to the Maine legislature that will, in fact, lower costs.
2. Quality of Care and Service – Ensure that a recommendation (i) will not result in a diminution in the quality of care or service, and (ii) ideally will result in improvements in care and service.
3. Methodology to Determine True Cost-Savings – Develop a methodology that will permit state and county correctional facilities to determine the true costs of a proposal for purchasing pharmaceuticals.

4. Community-Based Health Providers – Build partnerships with them. This will be important as to both existing incarcerated populations and as to those transitioning back to the community.
5. Identify Complimentary Investments that can be made and tools that can be developed to augment the system recommended.

**The Conference**

The purpose of today’s conference is to permit the Corrections-340B Work Group and other conference attendees to obtain information from out-of-state experts as to the potential role of 340Bs in the provision of pharmaceuticals to Maine state and county correctional facilities. The Work Group anticipates sufficient time for Q&A for attendees to explore specific issues with the presenters.

**The Presenters**

The Corrections-340B Work Group is delighted to have the following individuals present at today’s conference on the use of 340Bs in a correctional setting:

- ◆ **Ann Mack Perham**, Regional Vice President, Correctional Medical Services (CMS is the current medical services contractor to the Maine Department of Corrections)
- ◆ **Ellen H. Yankellow**, President & CEO, Correct Rx Pharmacy Services, Inc. (Correct Rx is the current pharmaceutical supplier to the Maine Department of Corrections and to seven County Jails)
- ◆ **Jeffrey R. Lewis**, President, Heinz Family Philanthropies
- ◆ **William H. von Oehsen III, Esq.**, President and General Counsel, Safety Net Hospitals for Pharmaceutical Access; Principal, Powers Pyles Sutter & Verville, P.C.

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**Members of the Corrections-340B Work Group**

- Katherine E. Plante**, Director, Health Care Services, Maine Dept. of Corrections – Co-Chair  
**Sheriff Glenn Ross**, Penobscot County Sheriff’s Office – Co-Chair  
**Joseph Fitzpatrick, Ph.D.**, Director of Behavioral Health, Maine Correctional Center  
**Sara Gagne-Holmes**, Executive Director, Maine Equal Justice  
**Dana Hunter**, Pharmacy Operations Manager, Eastern Maine Medical Center  
**Kevin Lewis**, Executive Director, Maine Primary Care Association  
**Sheriff Randall Liberty**, Kennebec County Sheriff’s Office (Designee – Richard Wurpel)  
**Denise V. Lord**, Associate Commissioner, Maine Department of Corrections  
**Sally McKinnon**, Chief Operating Officer, Regional Medical Center in Lubec  
**Sheriff Maurice R. Ouellette**, York County Sheriff’s Office (Designee – Michael Vitiello)  
**Steven D. Sherrets, Ph.D.**, Mental Health/Criminal Justice Manager, DHHS & Dept. of Corrections  
**Rep. Sharon Treat**, Maine House of Representatives

Tab 3

# 340B Covered Entities in Relation to Correctional Facilities

