

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ASTRAZENECA PHARMACEUTICALS LP,

*Plaintiff,*

–v–

NORRIS COCHRAN, *et al.*,

*Defendants.*

C.A. No. 21-00027 (LPS)

**THE AMERICAN HOSPITAL ASSOCIATION, 340B HEALTH, AMERICA’S  
ESSENTIAL HOSPITALS, THE ASSOCIATION OF AMERICAN MEDICAL  
COLLEGES, THE CHILDREN’S HOSPITAL ASSOCIATION, AND  
THE AMERICAN SOCIETY OF HEALTH-SYSTEM PHARMACIST’S  
MOTION TO INTERVENE**

The American Hospital Association, 340B Health, America’s Essential Hospitals, the Association of American Medical Colleges, National Association of Children’s Hospitals d/b/a the Children’s Hospital Association, and American Society of Health-System Pharmacists (collectively the “Proposed Interveners”) move this Court, pursuant to Federal Rule of Civil Procedure 24(a) or in the alternative pursuant to Federal Rule of Civil Procedure 24(b), for an Order granting their Motion to Intervene in this lawsuit regarding the 340B Drug Discount Program.

In support of this motion, Proposed Interveners are submitting Exhibits A through N and a proposed order. In accordance with D. Del. L.R. 7.1.1, Proposed Interveners consulted with counsel for Plaintiff and Defendants. Plaintiff and Defendants oppose the Motion to Intervene.

The 340B Program, established by section 340B of the Public Health Service Act, 42 U.S.C. § 256b, requires, as a condition of participating in Medicaid and Medicare Part B, that pharmaceutical manufacturers sell outpatient drugs at a substantially discounted price to certain

public and not-for-profit hospitals, community health centers, and other federally funded clinics that serve communities with a large numbers of low income patients (“340B providers” (described in the statute as “covered entities”)) in order to increase the funding these entities have available to meet the needs of their patients. These discounts are a minimum of 23% for most brand drugs and 13% for most generic drugs. Proposed Intervenors American Hospital Association, 340B Health, America’s Essential Hospitals, the Association of American Medical Colleges, National Association of Children’s Hospitals d/b/a the Children’s Hospital Association, have members who are 340B hospitals eligible to receive the benefits under the 340B Program. *See Am. Hosp. Ass’n*, No. 4:20-cv-8806 (N.D. Cal. Dec. 28, 2020), D.I. 9, at 5.

Since the beginning of the program, 340B providers (including members of Proposed Intervenors) have dispensed covered outpatient drugs to their patients through in-house pharmacies and through community pharmacies that have entered into written contracts with hospitals and other providers, referred to as “contract pharmacies.” Under the latter arrangements, the 340B provider orders and pays for the 340B drugs, which are then shipped to the contract pharmacy where the drugs are dispensed to the 340B provider’s patients. For more than twenty (20) years, all drug companies, including AstraZeneca Pharmaceuticals LP (“AstraZeneca”), worked cooperatively with 340B providers that dispensed discounted drugs to their patients through contract pharmacies. Overall, a quarter of the benefit that 340B hospitals receive from the 340B discount comes from 340B drugs dispensed through contract pharmacy arrangements. This varies by hospital type. For example, Critical Access Hospitals (small hospitals in rural areas) report that

an average of 51% of their 340B benefit from the 340B discount comes from drugs distributed through contract pharmacies.<sup>1</sup>

Plaintiff's complaint requests that the Court adopt an implausible interpretation of the 340B statute that would deny Proposed Intervenors' members access to drug discounts for drugs dispensed to their patients at most contract pharmacies. Intervention by Proposed Intervenors is necessary to protect their members' interests in this lawsuit and to ensure that patients have adequate access to 340B drugs — which it is not apparent the government Defendants will sufficiently do — and to defend the correct interpretation of the 340B statute to include the availability of discounts when distribution is through contract pharmacies. The Proposed Intervenors have standing to intervene because at least one or more of each association's members has been and continues to be significantly harmed by AstraZeneca's failure to offer 340B drug discounts to 340B covered entities when drugs are dispensed through contract pharmacies.

Proposed Intervenors meet the standard for intervention of right. First, Proposed Intervenors' members clearly have a direct stake in the outcome. If Plaintiff was to obtain a ruling adopting its (incorrect) interpretation of the statute, Proposed Intervenors' members' 340B savings would continue to diminish, seriously hampering their finances and their ability to serve vulnerable communities as Congress intended. Moreover, the drug companies that have not already adopted policies comparable to AstraZeneca's would be incited to adopt one, resulting in even greater losses of the 340B discounts and the services to the communities those discounts fund. Likewise, there is no question that an adverse outcome in this case would impair Proposed Intervenors'

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<sup>1</sup> See Declaration of Rebecca L. Butcher in Support of The American Hospital Association, 340B Health, America's Essential Hospitals, The Association of American Medical Colleges, The Children's Hospital Association, and The American Society of Health-System Pharmacist's Motion to Intervene ("Butcher Decl."), Ex. A (Declaration of Maureen Testoni in Support of Intervenors' Motion to Intervene, dated February 24, 2021 ("Testoni Decl."), ¶¶ 4–6).

members' interests in ensuring that the statute is correctly interpreted such that they continue receiving the 340B benefits to which they are entitled.

Defendants cannot adequately defend Proposed Intervenors' interests. In fact, to date, the Department of Health and Human Services ("HHS") has refused to take any action to stop AstraZeneca from denying Proposed Intervenors' members the statutory discounts to which they are entitled. Alternatively, because Proposed Intervenors and Plaintiff both seek to have this Court resolve the same question of law – namely whether the 340B statute requires Plaintiff to provide covered entities' covered outpatient drugs at or below the 340B ceiling price when dispensed through a contract pharmacy – Proposed Intervenors also meet the standard for permissive intervention. Accordingly, the Court should grant Proposed Intervenors' motion to intervene.

### **BACKGROUND**

Seven months ago, Eli Lilly and Company ("Lilly") became the first drug company to abandon its twenty-year compliance with the statutory requirement to provide 340B providers with drugs at or below 340B ceiling prices when dispensed through contract pharmacies. In May 2020, Lilly floated the idea of applying its "no contract pharmacy" policy to a single drug, Cialis<sup>®</sup>, with the division of HHS that administers the 340B program, the Health Resources and Services Administration ("HRSA").<sup>2</sup> When the HRSA failed even to inform Lilly that this practice would be illegal,<sup>3</sup> Lilly was emboldened to expand its discount denials to all of its drugs.<sup>4</sup> Shortly thereafter, AstraZeneca followed suit and issued notices to covered entities stating that the company would no longer honor 340B pricing for contract pharmacy arrangements and "only will

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<sup>2</sup> Butcher Decl., Ex. B (First Am. Compl. at Ex. E (Attach. 1), D.I. 17, *Eli Lilly & Co. v. Cochran*, No. 1:21-cv-81-SEB-MJD (S.D. Ind. Jan. 25, 2021 ("Lilly First Am. Compl.")).

<sup>3</sup> Butcher Decl., Ex. B (Lilly First Am. Compl. at Ex. C).

<sup>4</sup> Butcher Decl., Ex. B (Lilly First Am. Compl. at Ex. G).

process 340B pricing through a single Contract Pharmacy site for those Covered Entities that do not maintain their own on-site dispensing pharmacy.”<sup>5</sup> This policy went into effect October 1, 2020. Not surprisingly, to date, four other drug companies followed suit with similar policies.<sup>6</sup>

HRSA’s inaction precipitated three lawsuits. Two lawsuits challenged HRSA’s failure to issue an Administrative Dispute Resolution (ADR) regulation, which they alleged was needed to resolve the disagreement over contract pharmacy arrangements. *See Ryan White Clinics for 340B Access v. Azar*, No. 1:20-cv-2906 (D.D.C.); *Nat’l Ass’n of Cmty. Health Ctrs. v. Azar*, No. 1:20-cv-3032 (D.D.C.). In addition, Proposed Intervenors and three hospitals filed suit to obtain a ruling that the refusal by AstraZeneca and the other drug companies to provide 340B providers 340B discounts for drugs dispensed through contract pharmacies was illegal and to require HHS to develop an enforcement plan aimed at stopping the drug companies from continuing to implement these illegal policies. *See Am. Hosp. Ass’n v. Azar*, No. 4:20-cv-8806 (N.D. Cal. Dec. 11, 2020).<sup>7</sup> AstraZeneca and three of the other drug companies with similar contract pharmacy policies filed motions to intervene in those cases. AstraZeneca LP’s Mot. to Intervene as Def., D.I. 29, *Ryan White Clinics*, No. 1:20-cv-2906 (D.D.C. Nov. 24, 2020); Eli Lilly & Co.’s Mot. to Intervene as Def., D.I. 12, *Ryan White Clinics*, No. 1:20-cv-2906 (D.D.C. Nov. 20, 2020); Mot. of Sanofi-Aventis U.S. LLC to Intervene as a Def., D.I. 13, *Ryan White Clinics*, No. 1:20-cv-2906 (D.D.C. Nov. 20, 2020); AstraZeneca LP’s Not. of Mot., Mot., & Mem. in Supp. of Mot. to Intervene, D.I.

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<sup>5</sup> *See* Am. Compl., D.I. 13, Ex. A at 2.

<sup>6</sup> *See* Butcher Decl., Ex. C (Sanofi Notice dated July 2020)); Butcher Decl., Ex. D (“New policy related to the 340B program,” Novartis Statement (Oct. 30, 2020)); Butcher Decl., Ex. E (Mem. from Kevin Gray, SVP, United Therapeutics Corp. to 340B Covered Entity (Nov. 18, 2020)); Butcher Decl., Ex. F (Notice Regarding Limitation on Hosp. Contract Pharm. Distribution, Novo Nordisk (Dec. 1, 2020)).

<sup>7</sup> On February 17, 2021, the court dismissed this action without prejudice, on the basis that the plaintiffs may be able to maintain a narrower action seeking general enforcement of the statute.

35, *Am. Hosp. Ass'n*, No. 4:20-cv-8806 (N.D. Cal. Dec. 28, 2020); Proposed Intervenor-Def. Eli Lilly & Co.'s Not. of Mot., Mot., & Mem. in Supp. of its Mot. to Intervene, D.I. 28, *Am. Hosp. Ass'n*, No. 4:20-cv-8806 (N.D. Cal. Dec. 28, 2020); Proposed Intervenor-Def. Sanofi-Aventis U.S. LLC's Not. of Mot., Mot. to Intervene, & Mem. of P. & A. in Supp., D.I. 38, *Am. Hosp. Ass'n*, No. 4:20-cv-8806 (N.D. Cal. Dec. 28, 2020); Proposed Intervenor-Defendant Novo Nordisk Inc.'s Not. of Mot., Mot., & Mem. in Supp. of Mot. to Intervene, D.I. 62, *Am. Hosp. Ass'n*, No. 4:20-cv-8806 (N.D. Cal. Jan. 10, 2021).

In response to these lawsuits, HHS did two things. First, it finalized the proposed ADR regulation (which had been withdrawn). *See* 340B Drug Pricing Program; Administrative Dispute Resolution Regulation, 85 Fed. Reg. 80,632 (Dec. 14, 2020) (to be codified at 42 C.F.R. pt. 10). And, on December 30, 2020, its General Counsel issued an Advisory Opinion recognizing that the 340B statute requires drug companies to offer 340B discounts to covered entities for drugs dispensed through contract pharmacies. *See* Butcher Decl., Ex. G (*Advisory Opinion 20-06 on Contract Pharmacies Under the 340B Program* (Dec. 30, 2020) ("Advisory Opinion")). Nevertheless, even though the Advisory Opinion stated that the drug company policies with respect to contract pharmacies are illegal, *id.*, HHS has taken no action to enforce the statute.

In its complaint in this action, AstraZeneca challenges the Advisory Opinion. *See* D.I. 1. Subsequently, AstraZeneca filed an amended complaint which includes additional claims related to HRSA's ADR regulations. *See* D.I. 13. At the same time, AstraZeneca filed a motion seeking to preliminarily enjoin HRSA from implementing the Advisory Opinion. *See* D.I. 14. On February 23, 2021, however, the parties entered into a stipulation proposing a briefing schedule where the Defendants' motion to dismiss and opposition to a motion for summary judgment would be due on May 14, 2021, and where the motion for a preliminary injunction would be stayed. D.I. 23.

Proposed Intervenors' interest in this lawsuit relates only to AstraZeneca's claims regarding the Advisory Opinion. If permitted to intervene, Proposed Intervenors will comply with the Court's schedule as applicable to Defendants. Intervention in this case would thus not affect or delay this Court's resolution of AstraZeneca's claims.

### **ARGUMENT**

"Federal Rules of Civil Procedure 24(a) provides that, 'on timely motion, the court must permit anyone to intervene who: (1) is given an unconditional right to intervene by a federal statute; or (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.'" *Pa. Prison Soc'y v. Cortes*, 622 F.3d 215, 232 (3d Cir. 2010) (alteration omitted) (quoting Fed. R. Civ. P. 24(a)). "Rule 24(b) provides in relevant part that 'on timely motion, the court may permit anyone to intervene who: (A) is given a conditional right to intervene by a federal statute; or (B) has a claim or defense that shares with the main action a common question of law or fact.'" *Id.* (alteration omitted) (quoting Fed. R. Civ. P. 24(b)). Proposed Intervenors meet both of these standards because the Advisory Opinion, which Plaintiff challenges, impacts their members' right to statutory discounts under the 340B program.

#### **I. Proposed Intervenors Have a Right to Intervene Under Rule 24(a).**

The Third Circuit has articulated four elements that must be established to permit intervention pursuant to Rule 24(a)(2): "(1) the application for intervention is timely; (2) the applicant has a sufficient interest in the litigation; (3) the interest may be affected or impaired, as a practical matter by the disposition of the action; and (4) the interest is not adequately represented by an existing party in the litigation." *Crystallex Int'l Corp. v. PDV Holding Inc.*, No. 15-cv-1082, 2019 WL 6785504, at \*5 (D. Del. Dec. 12, 2019) (quoting *United States v. Territory of V.I.*, 748

F.3d 514, 519 (3d Cir. 2014)). “The polestar for evaluating a claim for intervention is always whether the proposed intervenor’s interest is direct or remote.” *Crystallex*, 2019 WL 6785504, at \*5 (alteration and citation omitted).

As in most other circuits, courts in the Third Circuit “liberally construe Rule 24(a) in favor of intervention.” *ACR Energy Partners, LLC v. Polo N. Country Club, Inc.*, 309 F.R.D. 191, 192 (D.N.J. 2015) (alteration and citation omitted). The Third Circuit’s approach favors “‘pragmatism’ and ‘elasticity’ over ‘rigid rules’ or ‘narrow approaches;’ it further ‘favors intervention over subsequent collateral attacks.’” *Crystallex*, 2019 WL 6785504, at \*5 (quoting *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 970–71 (3d Cir. 1998)); see also *Harris v. Pernsley*, 820 F.2d 592, 597 (3d Cir. 1987) (noting that courts must “consider the pragmatic consequences of a decision to permit or deny intervention”).

#### **A. Timeliness**

The Third Circuit considers three factors to determine whether a motion to intervene is timely: “(1) the stage of the proceeding; (2) the prejudice that delay may cause the parties; and (3) the reason for the delay.” *Wallach v. Eaton Corp.*, 837 F.3d 356, 371 (3d Cir. 2016) (citation omitted). In addition, timeliness is ascertained from the complete set of circumstances, and the inquiry “is essentially a test of reasonableness.” *F.T. Int’l, Ltd. v. Mason*, No. 00-5004, 2003 WL 21993859, at \*1 (E.D. Pa. May 2, 2003). Where intervention “will cause no delay to the parties,” the timeliness prong has been met. See *Glover v. Ferrero USA, Inc.*, No. 11-1086, 2011 WL 5007805, at \*3 (D.N.J. Oct. 20, 2011).

AstraZeneca filed its complaint challenging the Advisory Opinion on January 12, 2021 and filed an amended complaint and a motion for preliminary injunction related to the Advisory Opinion one month later on February 12, 2021. D.I. 1, 13–17. Proposed Intervenors have promptly moved to intervene. As noted above, Proposed Intervenors are prepared to comply with whatever



schedule the Court sets. Moreover, Proposed Intervenors have attached their Answer to the First Amended Complaint to its Motion to Intervene. *See* Butcher Decl, Ex. H. AstraZeneca therefore would not be prejudiced because there would be no delay. If the motion to intervene were denied, however, Proposed Intervenors would be prejudiced. Thus, the timeliness requirement is met.

## **B. Interest**

The second element under Rule 24(a)(2) requires the prospective intervenor to have “an interest ‘relating to the property or transaction which is the subject of the action’ that is ‘significantly protectable.’” *Kleissler*, 157 F.3d at 969 (citation omitted). In determining whether the movant has such an interest, “pragmatism is a substantial factor that must be considered,” and the Third Circuit has “relied on pragmatic considerations such as the benefits derived from consolidation of disputes into one proceeding.” *Id.* at 970.

Proposed Intervenors and their members have a direct and “significantly protectable” legal interest in obtaining discounts to which they are entitled under the 340B statute.<sup>8</sup> Proposed Intervenors’ member hospitals use the benefit from 340B discounts for 340B drugs dispensed through contract pharmacies to support programs and services offered by 340B hospitals. These discounts, for example, allow them to (1) provide and maintain more patient care services; (2) provide and maintain more uncompensated and unreimbursed care; (3) provide and maintain more services in underserved areas; and (4) develop and maintain targeted programs to serve vulnerable patients; and (5) keep their doors open. Butcher Decl., Ex. A (Testoni Decl.) ¶ 8.

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<sup>8</sup> “An association has standing to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization’s purpose, and neither the claim asserted, nor the relief requested requires the participation of individual members in the lawsuit.” *Friends of the Earth, Inc. v. Laidlaw Env’tl. Servs. (TOC), Inc.*, 528 U.S. 167, 181 (2000).

These discounts are precisely the subject of the Advisory Opinion that AstraZeneca challenges. AstraZeneca seeks an outcome directly contrary to the Advisory Opinion (*i.e.*, that it not be required to provide discounts for covered outpatient drugs when such drugs are dispensed through a contract pharmacy). Defendants' interests also diverge, as they disagree with Proposed Intervenor that HHS has the authority and obligation to enforce this requirement. Accordingly, the interest factor is met.

### **C. Interest Impaired**

In assessing whether a proposed intervenor's interests will be impaired, courts in the Third Circuit look to the "practical consequences of denying intervention." *Clean Earth, Inc. v. Endurance Am. Ins.*, No. 15-6111, 2016 WL 5422063, at \*4 (D.N.J. Sept. 2, 2016) (citation omitted). The disposition of AstraZeneca's lawsuit in AstraZeneca's favor would adversely affect Proposed Intervenor's members, and the communities they serve. If AstraZeneca were to successfully convince this Court to adopt its (incorrect) interpretation of the statute, Proposed Intervenor's members would continue to lose access to 340B discounts when their covered outpatient drugs are dispensed from a contract pharmacy. This would not only encourage the other five drug companies with similar policies to continue their policies, but it would likely encourage other drug companies to adopt the same types of policies. This would significantly, adversely impact the services all 340B covered entities provide to vulnerable populations. Butcher Decl., Ex. A (Testoni Decl.) ¶¶ 7, 9. This hardship, which 340B providers are already facing due to the six drug companies' current policies, comes amidst a pandemic that is putting an enormous strain on hospitals' financial resources and accordant ability to care for their patients. On the other hand, if Plaintiff's claims were rejected, then Proposed Intervenor's members would be able to continue receiving the benefits to which they are entitled and have received since the beginning of the 340B program.

#### D. Inadequate Representation

The government Defendants in this lawsuit do not adequately represent Proposed Intervenor's interests. The Third Circuit has held that the burden of making this showing should be treated as "minimal," and that a party seeking intervention as of right must only make a showing that the representation "may be" inadequate. *Pennsylvania v. President of the U.S.*, 888 F.3d 52, 60 (3d Cir. 2018) (citations omitted); *see also Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972). Representation is considered inadequate where, "although the applicant's interests are similar to those of a party, they diverge sufficiently that the existing party cannot devote proper attention to the applicant's interests." *Brody v. Spang*, 957 F.2d 1108, 1123 (3d Cir. 1992).

There is no doubt that the HHS' interests diverge sufficiently from the interests of Proposed Intervenor's in this case. Since AstraZeneca first instituted the contract pharmacy policy at issue, Proposed Intervenor's, 340B covered entities and other 340B covered entity trade associations have been trying to get the government to take action.<sup>9</sup> Despite periodically stating that it was looking into the issue,<sup>10</sup> and after its General Counsel issued an Advisory Opinion agreeing with Proposed Intervenor's statutory interpretation, the HHS has never taken the position that it can or will enforce the statutes as interpreted. The only thing the HHS has done is to issue the ADR regulation that is

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<sup>9</sup> *See, e.g.*, Butcher Decl., Ex. I (Letter from 340B Coalition to Alex M. Azar, Secretary, HHS (July 16, 2020)); Butcher Decl., Ex. J (Letter from Thomas P. Nickels, EVP, AHA to Alex M. Azar, Secretary, HHS (July 30, 2020)); Butcher Decl., Ex. K (Letter from Bruce Siegel, President & CEO, AEH to Alex Azar, Secretary, HHS (Aug. 28, 2020)); Butcher Decl., Ex. L (Letter from Richard J. Pollack, President & CEO, AHA to Alex M. Azar, Secretary, HHS (Sept. 8, 2020)); Butcher Decl., Ex. M (Letter from Richard J. Pollack, President & CEO, AHA to Alex M. Azar, Secretary, HHS (Oct. 16, 2020)).

<sup>10</sup> *See, e.g.*, Butcher Decl., Ex. B (Lilly First Am. Compl. at Exs. K and L).

being challenged in several lawsuits, and even that process has been unilaterally placed on hold.<sup>11</sup> It is therefore not only possible but quite conceivable that the government's defense of its right to implement and/or enforce the Advisory Opinion, as the Plaintiff seeks to bar it from doing, may be inadequate. That alone is sufficient to demonstrate that the government cannot and will not adequately represent the interests of Proposed Intervenors.

In sum, Proposed Intervenors have met the requirements for intervention of right.

**II. Alternatively, Proposed Intervenors Should be Permitted to Intervene Under Rule 24(b).**

Proposed Intervenors also satisfy the requirements of Federal Rule of Civil Procedure 24(b). Under Rule 24(b), on “timely motion” the Court “may permit anyone to intervene” who “has a claim or defense that shares with the main action a common question of law or fact.” *Intellectual Ventures I LLC v. AT&T Mobility LLC*, No. 12-193, 2014 WL 4445953, at \*2 (D. Del. Sept. 8, 2014) (quoting Fed. R. Civ. P. 24(b)(1)(B)). Permissive intervenors must demonstrate “(1) an independent basis for subject matter jurisdiction, (2) a timely motion, and (3) a claim or defense that has a common question of law or fact with the primary litigation.” *Id.*

“[T]he court has broad discretion to permit intervention by anyone who ‘has a claim or defense that shares with the main action a common question of law or fact,’” *Tansey v. Rogers*, No. 12-1049, 2016 WL 3519887, at \*2 (D. Del. June 27, 2016) (quoting Fed. R. Civ. P. 24(b)(1)(B)). The common question of law in this case is whether the 340B statute requires pharmaceutical manufacturers to offer 340B discounts to covered entities that dispense their 340B drugs through contract pharmacies. For the reasons described above, *see* Sec. I.A., this motion is timely and thus will not delay the proceedings or prejudice AstraZeneca or the Defendants.

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<sup>11</sup> Butcher Decl., Ex. N (Cathy Kelly, *340B Dispute Resolution Process On Ice As Feuds Between Pharma, Providers, HHS Heat Up*, Pink Sheet (Jan. 22, 2021)).

Accordingly, at a minimum Proposed Intervenor should be permitted to intervene under Rule 24(b).

**CONCLUSION**

For the foregoing reasons, Proposed Intervenor request that the Court grant their motion to intervene of right under Rule 24(a) or, in the alternative, to allow Proposed Intervenor to intervene under Rule 24(b).

Dated: February 26, 2021

**LANDIS RATH & COBB LLP**

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ASTRAZENECA PHARMACEUTICALS LP,

*Plaintiff,*

–v–

NORRIS COCHRAN, *et al.*,

*Defendants.*

C.A. No. 21-00027 (LPS)

**[PROPOSED] ORDER GRANTING MOTION TO INTERVENE**

Upon consideration of the Motion to Intervene filed by the American Hospital Association, 340B Health, America’s Essential Hospitals, the Association of American Medical Colleges, National Association of Children’s Hospitals d/b/a the Children’s Hospital Association, and American Society of Health-System Pharmacists’ (collectively, “Intervenor Defendants”) to intervene as Defendants in this action and any opposition thereto, it is hereby

ORDERED that the motion is **GRANTED**; and it is further

ORDERED that the Intervenor Defendants may intervene in this matter pursuant to Fed. R. Civ. P. 24; and it is further

ORDERED that the Intervenor Defendants shall file their Answer to the First Amended Complaint within 5 days.

Dated: \_\_\_\_\_, 2021

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The Honorable Leonard P. Stark