

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ABBVIE INC.,

Plaintiff,

v.

ROBERT F. KENNEDY JR., in his official
capacity, et al.,

Defendants

and

NATIONAL ASSOCIATION OF COMMUNITY
HEALTH CENTERS, INC.; and
RYAN WHITE CLINICS FOR 340B ACCESS,

Proposed Intervenor-Defendants.

Civil Action No. 1:26-cv-1190-RDM

**JOINT MOTION OF NATIONAL ASSOCIATION OF COMMUNITY HEALTH
CENTERS, INC. AND RYAN WHITE CLINICS FOR 340B ACCESS
FOR JOINDER IN DEFENDANTS' MOTION TO DISMISS**

Proposed Intervenor-Defendants National Association of Community Health Centers, Inc. (“NACHC”) and Ryan White Clinics for 340B Access (“RWC-340B”) move to join in and adopt Defendants’ Motion to Dismiss (Doc. 13).¹

As mentioned in their memorandum in support of their Joint Motion to Intervene as Defendants, Proposed Intervenor-Defendants “will join the Government Defendants’ pending motion to dismiss and will file a reply in support of that motion, rather than filing a separate or duplicative Rule 12 motion.” Mem. in Support of Jt. Mot. Intervene as Defs. at 34 n.4. The

¹ Intervenor-Defendants uses the blue pagination generated by the electronic CM/ECF database, which appears in the headers of all court filings.

Intervenor-Defendants agree that AbbVie’s claims should be dismissed for the four independent reasons in the Motion to Dismiss:

“First, the Court lacks jurisdiction to hear Plaintiff’s APA claims because those claims are not ripe for review. Second, even if the claims were ripe, AbbVie’s APA claims fail because the Department’s^[2] letter permitting AbbVie to move forward with its proposed audits does not constitute final agency action. Third, AbbVie lacks Article III standing because even if a favorable ruling from this Court would redress its alleged injury—the enforcement outcome AbbVie ultimately seeks remains committed to agency discretion regardless of how the definitional questions are resolved. Fourth, and independently, the enforcement determination AbbVie seeks is committed to agency discretion by law and is therefore unreviewable under the APA. Moreover, the Department’s letter is consistent with the Department’s thirty-year-old guidance.

Doc. 13 at 5–6. For any of these reasons, the Court should dismiss the complaint in its entirety.

² “Department” is defined in the motion as “Defendants, Robert F. Kennedy, Jr., in his official capacity as Secretary of the Department of Health and Human Services, Thomas J. Engels, in his official capacity as Administrator of the Health Resources and Services Administration, the Department of Health and Human Services (“HHS”), and the Health Resources and Services Administration (“HRSA”), (collectively “Defendants” or the “Department” or the “Agency”).” Doc. 13 at 5.

Dated: July 6, 2026

Respectfully submitted

/s/ Gene C. Schaerr

Gene C. Schaerr (D.C. Bar No. 416368)
Stephanie L. Freudenberg* (D.C. Bar No. 1656482)
Justin A. Miller* (D.C. Bar No. 90022870)
SCHAERR | JAFFE LLP
1717 K Street NW, Suite 900
Washington, DC 20006
(202) 787-1060
gschaerr@schaerr-jaffe.com
sfreudenberg@schaerr-jaffe.com
jmillers@schaerr-jaffe.com

*Admission applications pending

*Counsel for Proposed Intervenor-Defendant
National Association of Community Health
Centers, Inc.*

/s/ Barbara Straub Williams

William H. von Oehsen (D.C. Bar No. 423381)
Barbara Straub Williams (D.C. Bar No. 396582)
Ronald S. Connelly (D.C. Bar No. 488298)
POWERS PYLES SUTTER & VERVILLE PC
1250 Connecticut Ave, NW, Eighth Floor
Washington, DC 20036
(202) 466-6550
William.vonOehsen@PowersLaw.com
Barbara.Williams@PowersLaw.com
Ron.Connelly@PowersLaw.com

*Counsel for Proposed Intervenor-Defendant
Ryan White Clinics for 340B Access*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABBVIE INC.,

Plaintiff,

v.

ROBERT F. KENNEDY JR., in his official
capacity, et al.,

Defendants

and

NATIONAL ASSOCIATION OF COMMUNITY
HEALTH CENTERS, INC.; and
RYAN WHITE CLINICS FOR 340B ACCESS,

Proposed Intervenor-Defendants.

Civil Action No. 1:26-cv-1190-RDM

**[PROPOSED] ORDER GRANTING JOINT MOTION OF
NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.
AND RYAN WHITE CLINICS FOR 340B ACCESS FOR
JOINDER IN DEFENDANTS' MOTION TO DISMISS**

Having considered National Association of Community Health Centers, Inc. ("NACHC") and Ryan White Clinics for 340B Access ("RWC-340B")'s Joint Motion for Joinder in Defendants' Motion to Dismiss (Doc. 13), and any opposition thereto, it is hereby ORDERED that it is **GRANTED**.

SO ORDERED.

ENTERED this ____ day of _____, 2026

HON. RANDOLPH D. MOSS
United States District Judge