

525 Clinton Street  
Bow, NH 03304  
Voice: 603-228-2830  
Fax: 603-228-2464



61 Elm Street  
Montpelier, VT 05602  
Voice: 802-229-0002  
Fax: 802-223-2336

**Written Testimony on H. 353 for the Senate Committee on Health and Welfare**

**Mary Kate Mohlman, PhD, MS**

**Bi-State Primary Care Association**

**April 4, 2022**

Madame Chair, Members of the Committee, I am submitting these comments on H. 353, a bill for regulating pharmacy benefit managers, which is scheduled before your committee for review on April 6, 2022. These comments represent the perspective of Bi-State Primary Care Association members.

Bi-State Primary Care Association is nonprofit organization established in 1986 to advance access to comprehensive primary care and preventive services for anyone regardless of insurance status or ability to pay. Today, Bi-State represents 28 member organizations across both Vermont and New Hampshire. Our members include Federally Qualified Health Centers (FQHCs), Vermont Free and Referral Clinics, Area Health Education Center programs, and Planned Parenthood of Northern New England.

The parts of this bill that I would like to address are the sections on the 340B prescription drug program. Bi-State and its members support the existing language as passed by the House including the extension of the below provision's repeal date to April 1, 2024.

**Act 74 of 2021**

*§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO PHARMACIES*

*\* \* \**

*(d) A pharmacy benefit manager shall not:*

*(1) require a claim for a drug to include a modifier or supplemental transmission, or both, to indicate that the drug is a 340B drug unless the claim is for payment, directly or indirectly, by Medicaid; or*

*(2) restrict access to a pharmacy network or adjust reimbursement rates based on a pharmacy's participation in a 340B contract pharmacy arrangement.*

*Sec. E.227.2 REPEAL 18 V.S.A. § 9473(d) (pharmacy benefit managers; 340B entities) is repealed on April 1, 2024.*

The Department of Financial Regulation also supported this extension as stated in their Act 74 (2021) [report](#) on *National Activity Affecting Participation in the 340B Drug Pricing Program*. Specifically, they state on page 20 of the report:

*Although it is a temporary measure scheduled for repeal on January 1, 2023, most stakeholders and the Department agree that this is an important first step to addressing issues with the 340B program. At least 16 other states have enacted similar laws, some significantly more expansive than Act No. 74.*

The reasons for supporting the provisions protecting the 340B program are simple – the program is essential to maintaining the accessibility, affordability, and scope of services offered by Bi-State

members. The 340B program was created to allow certain providers, such as FQHCs, to stretch scarce federal dollars to provide patient care. With 340B funds, FQHCs across Vermont are able to offer discounts on prescription drugs, dental services, nutrition services, school-based services, transportation, translation, and many other services to their patients, while remaining financially viable. Any erosion of this program means that FQHCs will have to scale back access and services to those least able to pay for health care. While Bi-State continues to work with Senators Leahy and Sanders, Congressman Welch, and the National Association of Community Health Centers (NACHC) on ways to protect this program for FQHCs and their safety net services at the federal level, we also support efforts by Vermont policy makers to add protections at the state level.

The 340B protections included H. 353 ensure that PBMs do not reduce the number of 340B drugs they cover, lower reimbursement and/or add higher fees for 340B drugs, limit a pharmacy's ability join its network based on 340B participation, or decrease pharmacy access for patients of 340B covered entities. By limiting potential erosion of the 340B program by PBMs, H. 353 supports continued accessibility and affordability of safety net services, including primary care, mental health, and oral health services. Without the current level of saving available through the 340B program, safety net organizations such as FQHCs will have to reduce the service they offer. Again, thank you for the opportunity to comment, and I am happy to respond to any question either verbally or in writing.