



Purpose of 340B

The intent of the 340B program is to “enable [covered] entities to stretch scarce Federal resources as far as possible, reaching more eligible patients and providing more comprehensive services.”¹

Vermont’s hospitals use 340B funding for expanded women’s health services, mental health services, and substance use disorder treatment services. Most of the funding is used to fund financial assistance programs and avoid higher commercial rate increases. For example, the 340B program at Northwestern Vermont Medical Center reduces their commercial rate request by 5%.²

Issues Addressed by H.266

A few years ago, manufacturers started undermining the 340B program by refusing shipment of prescription drugs if data was incorrectly reported or if the entity used more than one pharmacy. One manufacturer required entities to purchase prescription drugs at full price and then apply for a rebate, causing cash flow problems.

These actions have directly impacted hospitals and includes at least one hospital requesting an additional 2% commercial rate increase to its FY 24 hospital budget.

H.266 is crafted to protect the 340B program from current and potential pharmaceutical drug manufacturer restrictions and discrimination.

Overview of H.266

SECTION 1

18 V.S.A. § 4681 Definitions

- 340B covered entity—Includes all Vermont hospitals, FQHCs, and Planned Parenthood
- 340B contract pharmacy—dispenses 340B drugs on the covered entity’s behalf

18 V.S.A. § 4682 Prohibits Discrimination Against 340B Entities

- Drug manufacturers are prohibiting from interfering with delivery or acquisition of a 340B drug
- Drug manufacturers shall not require submission of data as a condition of purchase, unless required by the federal government. Prohibited data includes:
 - Claims
 - Utilization
 - Encounter
 - Purchase
- Drug manufacturers are prohibited from interfering with a contract pharmacy’s ability to

¹ H.R. Rep. 102-384,102d Cong., pt. 2, at 12 (2d Sess. 1992).

² <https://gmcbboard.vermont.gov/sites/gmcb/files/documents/NMC%20Narrative%20FY25.pdf#page=9&zoom=auto,-78,776>



dispense 340B drugs to eligible patients

- Drug manufacturers shall make the discount available at time of purchase instead of a rebate program

18 V.S.A. §4683 Reimbursement of 340B entities

- Prohibits health insurers, PBMs, or other third-party payors from doing the following:
 - Reimburse 340B drugs at a lower rate
 - Impose terms on 340B covered entities or contract pharmacies that differ than non-340B
 - Require a covered entity or pharmacy to reverse, resubmit, or clarify claims when it is not required for non-340B
 - Discriminate against a covered entity or contract pharmacy in a way that interferes with patient choice
 - Include any other provisions that discriminate against 340B
 - Require the covered entity or contract pharmacy to submit ingredient costs or pricing data
 - Exclude the covered entity or contract pharmacy from the network

18 V.S.A. § 4684 Medicaid unaffected

- This bill does not apply to Medicaid

18 V.S.A. § 4685 Violations

- Private right of action

18 V.S.A. 4686 No conflict with federal law

SEC. 2 PHARMACY BENEFIT MANAGERS

Deleted 18 V.S.A. § 3631 requirements for PBMs, because they are incorporated in the section above

SEC. 3. EFFECTIVE DATE: UPON PASSAGE

340B and Affordability

Allowing drug manufacturers to undermine the 340B program will lead hospitals to ask for larger commercial rate increases while drug manufacturers will pocket the savings.