Dear Chair Black, Vice-Chair McFaun, and members of the House Health Care Committee:

In follow up to my oral testimony this morning concerning H.266, MVP urges the Committee to consider the following:

- **Remove health insurers from H.266 and Limit the Bill's Scope to Manufacturers**
    - As noted, health plans are not part of, privy to, or anyway involved in the 340B program. We pay members' prescription drug claims without regard to a provider's 340B status or the underlying price paid by the providers for the drug (including drugs acquired at a discount under the 340B program). Given existing requirements, **we urge the Committee to strike the entirety of "§ 4683. REIMBURSEMENT OF 340B ENTITIES" which starts on line one, p.4, and ends on line 8, page 7.**
        - Notably, existing VT statute already prohibits *state-regulated* health insurers or their agent (PBMs) from asking for any information on a claim that would identify a drug as a 340B drug. So, much of what's proposed under §4683 "Reimbursement of 340B Entities" is redundant and duplicative of current requirements in 18 V.S.A. § 9473, which reads:

> (g) A pharmacy benefit manager shall not:
>
> 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
>
> restrict access to a pharmacy network or adjust reimbursement rates based on a pharmacy's participation in a 340B contract pharmacy arrangement.

    - In addition to being redundant and duplicative of current law, the 340B program itself requires manufacturers to provide discounts on the price of certain drugs to 340B eligible providers. It does not contain any requirements concerning what 340B providers should be reimbursed for those drugs.
        - As I outlined in my comments, reimbursement issues should be treated separately as they are not related to the 340B program.
        - The proposed requirements under § 4683 – particularly subsections 4 and 5 on pgs. 5 and 6 – go much further than simply protecting the 340B discounts for eligible providers. They broadly establish that any "interference" with a patient's choice to receive drugs from a 340B entity is discriminatory and subject to legal action.

        - This overly broad standard of "interference" could be interpreted, for example, to include health plan benefit designs to help members find affordable services. This is particularly concerning as it relates to prescription drug costs in hospital-owned outpatient clinics and other settings. Drug costs in these settings are significant cost drivers, and there is a lot of attention nationally and locally to better understanding this cost phenomena.
            - The same drug cost phenomena doesn't exist in reimbursement of FQHCs and independent physician practices because they are reimbursed on a standard fee schedule, at rates based on the average sales price of a particular drug.
            - Because hospital-owned outpatient clinics and sites are generally reimbursed on a percentage of charges, there is essentially no ceiling on what can be charged for any drug, including those acquired under the 340B program, at a discount.
        - Deeming any effort to help members find more affordable choices and savings should not be considered interference, and certainly not subject to a private right of action under the proposed violations section.
        - Coupled with the reality that 1) health insurers don't know if a drug was acquired is a 340B drug, and 2) the 340B program affords discounts on the acquisition price of drugs but doesn't guarantee a set price on the providers charges – it's wholly inappropriate to consider these issues as "340B protection" issues and, in our view, supports the argument that the entirety of the reimbursement of 340B entities section should be removed.
    - Since health insurers are not involved in the practices that FQHCs and hospitals have outlined in their testimony such as banning contract pharmacies or requiring rebates rather than discounts, insurers should be removed from this bill entirely and it should be limited to manufacturers. In addition to removing § 4683 (reimbursement), MVP urges the committee to:
        - Remove the definition of "health insurer" in proposed § 4681(5)
        - Remove the references to "health insurer's" and "health insurer" from the private right of action set forth in § 4685, Violations

Thank you for considering these amendments.

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