



Biotechnology Innovation Organization  
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April 11, 2025

Vermont State House  
Senate Committee on Health and Welfare  
Senator Virginia "Ginny" Lyons, Chairwoman  
Kiki Carasi-Schwartz, Committee Assistant  
115 State Street  
Montpelier, VT 05633-5301

Dear Chairwoman Lyons and members of the Senate Committee on Health and Welfare,

**On behalf of the Biotechnology Innovation Organization (BIO), we are writing in opposition to House Bill 266, *an act relating to 340B covered entities and 340B contract pharmacies*.**

BIO is the world's largest trade association representing over one thousand biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. BIO members are at the forefront of the research and development of innovative healthcare, agricultural, industrial, and environmental biotechnology products. BIO also produces the BIO International Convention, the world's largest gathering of the biotechnology industry, along with industry-leading investors and partnering meetings held around the world.

Vermont's bioscience industry employed 2,828 individuals in 2023 across 441 establishments, representing growth of 10.4 percent in employment since 2019. Vermont has a specialized employment concentration in the medical devices and equipment subsector. Bioscience industry jobs pay substantially more than other sectors, with an average wage of \$104,997 - 70 percent higher than the state's private sector average. Bioscience-related academic R&D expenditures in the state reached \$159.6 million in 2022, up 41 percent since 2019. Additionally, Vermont inventors were awarded 457 bioscience-related patents from 2019 through 2023.<sup>1</sup>

BIO respectfully asks for your opposition to H.B. 266. BIO opposes H.B. 266, as it **distorts the 340B program beyond the scope of federal statute, does not help patients lower their out-of-pocket costs, and makes it more difficult for states, payers, and manufacturers to identify illegal duplicate discounts (and waste in the system).**

H.B. 266 prohibits manufacturers from limiting distribution of 340B-discounted drug products to a pharmacy that has contracted with a 340B covered entity. This restriction create perverse incentives in an already opaque program, ultimately making it harder to hold covered entities accountable and ensure that the benefits they are trusted to deliver to patients aren't diverted to intermediaries' profit margins. **Most contract pharmacies are for-profit corporations whose shareholders benefit from exponential growth in the 340B Drug Discount program.**

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<sup>1</sup> [Vermont State Economic Profile for Bioscience Industry](#)



According to an October 2020 study, the number of contract pharmacy arrangements in the program grew by 4,228% from 2,321 in 2010 to 101,469 in 2020<sup>2</sup>, and as of July 2023 this number increased to 194,016.<sup>3</sup> Additionally, the number of unique pharmacy locations has grown from approximately 1,300 in 2010 to roughly 33,000 in 2023. According to one analysis, “the average profit margin on 340B medicines commonly dispensed through contract pharmacies is an estimated 72% compared with just 22% for non-340B medicines dispensed through independent pharmacies.”<sup>4</sup> This explosive growth has occurred because it is extremely profitable for pharmacies to share the 340B discount provided to covered entities. **This type of policy would further benefit contract pharmacies’ profit margins rather than the vulnerable patients the 340B Drug Discount Program seeks to protect and serve.**

In addition, H.B. 266 codifies a contract pharmacy, a part of the program that has led to inappropriate growth that is not included in the federal statute and is subject to pending litigation. **Contract pharmacies are also known to have greater risk of diversion and duplicate discounts.** Fraud, waste, and abuse within the 340B program often comes in the form of “duplicate discounts” and “diversion,” which are prohibited by the 340B federal statute. A duplicate discount is when an entity illegally collects discounts under multiple programs for the same drug, such as receiving discounts from both the 340B Program and the Medicaid Drug Rebate Program. Diversion is when a non-eligible patient receives a 340B discounted drug. The US Government Accountability Office (GAO) notes that contract pharmacies are a significant source of diversion and duplicate discounts, in part due to the fact that they often do not identify patients as 340B-eligible until after the prescription has been dispensed.<sup>5</sup>

**Finally, H.B. 266 would increase the risk of fraud, waste, and abuse by preventing the identification of 340B claims.** H.B. 266 prohibits manufacturers from requiring data to identify 340B claims. However, claims data is essential to prevent fraud, waste and abuse in the program. Manufacturers and states rely on 340B claims data to prevent inappropriate duplicate discounts and diversion.<sup>6</sup> Without this information, it is much more difficult for manufacturers to conduct audits to ensure that fraud, waste, and abuse are not taking place.

For these reasons, we respectfully request that you oppose House Bill 266. If you have questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Stephen G. Burm".

Stephen Burm  
Director, State Government Affairs, Northeast Region  
[sburm@bio.org](mailto:sburm@bio.org)

<sup>2</sup> Vandervelde, Aaron, et al., “For-Profit Pharmacy Participation in the 340B Program,” BRG Group, October 2020. <https://www.thinkbrg.com/insights/publications/for-profit-pharmacy-participation-340b/> (Accessed: April 25, 2023)

<sup>3</sup> Fein, Adam, “Exclusive: For 2023, Five For-Profit Retailers and PBMs Dominate an Evolving 340B Contract Pharmacy Market,” July 11, 2023. Accessed July 13, 2023. <https://www.drugchannels.net/2023/07/exclusive-for-2023-five-for-profit.html>

<sup>4</sup> Vandervelde, October 2020.

<sup>5</sup> Drug Discount Program: Federal Oversight of Compliance at 340B Contract Pharmacies Needs Improvement, GAO Report, June 2018.

<sup>6</sup> Lynch, Calder, “Best Practices for Avoiding 340B Duplicate Discounts in Medicaid,” *CMS Information Bulletin*, Centers for Medicare and Medicaid Services, January 8, 2020.