**CONSENT CALENDAR**

**May 15, 2024**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Commerce and Consumer Affairs to which was referred SB 557,**

**AN ACT relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.**

**Rep. Tim McGough**

**FOR THE COMMITTEE**

Original: House Clerk
Cc: Committee Bill File

# COMMITTEE REPORT

| | |
|---|---|
| Committee: | **Commerce and Consumer Affairs** |
| Bill Number: | **SB 557** |
| Title: | **relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program.** |
| Date: | **May 15, 2024** |
| Consent Calendar: | **CONSENT** |
| Recommendation: | **OUGHT TO PASS** |

## STATEMENT OF INTENT

This bill prohibits a health insurance issuer, pharmacy benefit manager, or other third-party payer from discriminating against an entity participating in the federal 340B Drug Pricing Program based on the entity's participation in the program. The 340B Drug Pricing Program ensures covered entities are able to provide a savings to the patients they serve and re-invest savings into access to needed healthcare services. This bill will protect the 340B Drug Pricing Program in New Hampshire in lieu of federal action

Vote 18-0.

Rep. Tim McGough
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

**CONSENT CALENDAR**

Commerce and Consumer Affairs

**SB 557,** relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program. **OUGHT TO PASS.**

Rep. Tim McGough for Commerce and Consumer Affairs. This bill prohibits a health insurance issuer, pharmacy benefit manager, or other third-party payer from discriminating against an entity participating in the federal 340B Drug Pricing Program based on the entity's participation in the program. The 340B Drug Pricing Program ensures covered entities are able to provide a savings to the patients they serve and re-invest savings into access to needed healthcare services. This bill will protect the 340B Drug Pricing Program in New Hampshire in lieu of federal action **Vote 18-0.**

Original: House Clerk
Cc: Committee Bill File

**HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS**

**EXECUTIVE SESSION on SB 557**

**BILL TITLE:** relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program.

**DATE:** May 15, 2024

**LOB ROOM:** 302-304

**MOTIONS: OUGHT TO PASS**

Moved by Rep. McGough Seconded by Rep. Burroughs Vote: 18-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Jane Beaulieu, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

2024 SESSION

4/19/2024 9:56:56 AM
Roll Call Committee Registers Report

## Commerce and Consumer Affairs

Bill #: 557 Motion: OTP AM #: _____ Exec Session Date: 5/15/24

| Members | YEAS | Nays | NV |
|---|---|---|---|
| Hunt, John B. Chairman | ✓ | | |
| Ammon, Keith Michael Vice Chairman | ✓ | | |
| Potucek, John M. | ✓ | | |
| Post, Lisa C.M. | ✓ | | |
| Cole, Brian D | ✓ | | |
| McGough, Tim S | ✓ | | |
| Porcelli, Susan M | ✓ | | |
| Thackston, Dick H | ✓ | | |
| Walsh, Lilli M | ✓ | | |
| Burroughs, Anita D. | ✓ | | |
| Herbert, Christopher J. | ✓ | | |
| Beaulieu, Jane E. Clerk | ✓ | | |
| McAleer, Chris R. | ✓ | | |
| Gibbs, Merryl | ✓ | | |
| Spier, Carry | ✓ | | |
| Sullivan, Jared | ✓ | | |
| Grassie, Chuck W. | ✓ | | |
| Rafter, Hal W | ✓ | | |
| **TOTAL VOTE:** | 18 | 0 | |

**HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS**

# SUBCOMMITTEE WORK SESSION on SB 557

**BILL TITLE:** relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program.

**DATE:** May 7, 2024

**Subcommittee Members:** Reps. Hunt, McGough, Porcelli, Burroughs, Spier and Rafter

**Comments and Recommendations:**

**MOTIONS: OUGHT TO PASS**

Moved by Rep. Rep. McGough Seconded by Rep. Rep. Burroughs Vote: 6-0

Respectfully submitted,

Rep. John Hunt
Subcommittee Chairman

**HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS**

**PUBLIC HEARING ON SB 557**

**BILL TITLE:** **relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program.**

**DATE:** **April 30, 2024**

**LOB ROOM:** **302-304** **Time Public Hearing Called to Order:** **12:00 p.m.**

**Time Adjourned:** **12:25 p.m.**

**Committee Members: Reps. Hunt, Ammon, Beaulieu, Potucek, Post, Cole, McGough, Porcelli, Thackston, L. Walsh, Burroughs, Herbert, McAleer, Spier, J. Sullivan and Rafter**

**Bill Sponsors:**

| | | |
|---|---|---|
| **Sen. Prentiss** | **Sen. Fenton** | **Sen. Watters** |
| **Sen. Rosenwald** | **Sen. Perkins Kwoka** | **Sen. Whitley** |
| **Sen. D'Allesandro** | **Rep. Hakken-Phillips** | **Rep. Merchant** |
| **Rep. J. Murphy** | | |

**TESTIMONY**

* Use asterisk if written testimony and/or amendments are submitted.

Senator Prentiss introduced the bill
- Supports
- This is a proactive measure

Matthew Houde and Kristin Chupka - Dartmouth Health
- Pharmacists
- Implements the 340B program
- Supports

*Kris McCracker - Amoskeag Health
- Supports

Ed Sheinshala - Ammanousic Community Health Services
- Supports
- Spoke of savings from the pharmaceutical companies

Respectfully Submitted,

Rep Jane Beaulieu, Clerk

# SIGN UP SHEET

Register Your Opinion If Not Testifying

**Committee:** Commerce

**Date: 4/30/24**

**Bill #: SB557**

****Please Print All Information****

| Name | Address | Phone | Representing | Pro | Con |
|---|---|---|---|---|---|
| Peter Braydon | | | Harvard-Pilgrim | | ✓ |
| Ben Bradley | NH Hospital Association | | | ✓ | |
| MO BAILEY | GSIL | | | ✓ | |
| Colleen Dowling | Bi-State PCA | | | ✓ | |
| Kris McCracken | Amoskeag Health (speaking) | | | ✓ | |
| Ed Shanshala | Ammonoosuc Community Health Services (Gpoly) | | | ✓ | |
| Georgia Mokeras | Bi-State PCA | | | ✓ | |
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AMOSKEAG HEALTH

*Kris McCracken

April 30, 2024

Representative John Hunt, Chairman
House Commerce and Consumer Affairs Committee
Legislative Office Building, Room 302-304
33 N. State Street Concord, NH 03301

Dear Chairman Hunt and Members of the House Commerce and Consumer Affairs Committee:

Thank you for the opportunity to speak in support of SB 557 relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program. My name is Kris McCracken, and I am the President and Chief Executive Officer of Amoskeag Health, a federally qualified health center (FQHC) with 5 sites in Manchester. We deliver integrated primary care, including prenatal care, behavioral health services, substance use disorder treatment, chronic disease management, cancer screenings, and social services to approximately 16,000 patients from Manchester and neighboring towns.

SB 557, if passed into law, would protect health care providers that participate in the 340B Drug Pricing Program from discriminatory practices by pharmacy benefit managers (PBMs), health insurance issuers, and other third-party payers. Due to increasing threats to the 340B program, we are asking our elected officials to enact state-level protections that will allow FQHCs and other health care providers to continue to access 340B savings that help huge numbers of patients, particularly in the Granite State's rural and medically underserved regions.

**How did the 340B Drug Pricing Program get started?**
The 340B Drug Pricing Program was created in 1992 to meet the needs of underserved populations and the organizations that serve them, including FQHCs. This federal law requires pharmaceutical companies to provide discounts on outpatient drugs to providers serving a large number of uninsured and underinsured patients. When Congress created the 340B program, they stated that the program's purpose was to enable "covered entities" to stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services. The program includes FQHCs, safety net hospitals, children's hospitals, outpatient cancer center hospitals, and many rural providers including critical access hospitals, rural referral centers, and sole community hospitals.

**How does the 340B program work?**
Pharmaceutical companies, as a condition for participating in Medicaid, provide discounts on outpatient drugs directed to covered entities.

**What are New Hampshire FQHCs and other covered entities doing with the savings from the program discounts?**
There are two primary ways the 340B program benefits FQHCs and our patients:

1. FQHCs use the savings from the program discounts to provide needed medications for free or at substantially discounted prices for our uninsured and low-income patients.
2. 340B savings are also a substantial part of our ability to improve the health of underserved populations: Our health centers use 340B savings to support services and programs that our communities need most. These services, which are different for every health center based on community need, include: mental health and substance use disorder treatment, dental care, mobile health, hepatitis C treatment, housing supports, transportation, translation, and community health worker outreach. 340B also covers the costs of non-reimbursable services and allows health centers to employ critical staff whom are not funded by specific grants and whose services are not billable. Many of the services supported by 340B yield cost savings and better health outcomes.

In 2022, New Hampshire FQHCs received $14M in 340B savings, representing 20% of our patient services revenue.[1]

*The ability to purchase medications at a reduced cost is extremely helpful to patients that have no insurance, and when they are ineligible for coverage, but still have chronic medical conditions that need to be treated with medication that can sometimes be very costly. For example, we have a patient who works as a consultant. She is self-employed, but makes more than 138% of the poverty level, the level needed to qualify for Medicaid. Her income is not very high, was around $40,000 a year, but the poverty level is so low, that she did not qualify (for a family of 2, $2,266/month, or about $27,000/yr). While self-employed, she was able to use our 340B program to buy her medicine at a nominal cost ($4 to $12 month for medications on the formulary, plus the $15 dispensing fee, or a max of $19-$27 per medication). These rates were affordable and she was able to continue safely on her medication at a cost she could afford. If she had to purchase these medications out of pocket, they would have cost well over $300/mo. She did eventually move back into a employment situation that offered health benefits, but she tells everyone we saved her life during that time by allowing her to continue to take her medications for her heart condition, thyroid and cholesterol.*

**Does the program cost taxpayers money?**

No, the program costs New Hampshire taxpayers $0. What funds the program are the discounts provided by pharmaceutical companies directly to their providers.

**How much does the program cost pharmaceutical companies?**

Total 340B sales in the U.S. represent less than 3% of U.S. drug sales.[2] This percentage has remained steady, and pharmaceutical companies have been able to maintain their profit margins.

**Right now, why is the 340B program in danger?**

The 340B program has been under attack since 2020, as pharmaceutical companies increasingly do not want to sell their medications at a reduced rate to covered entities

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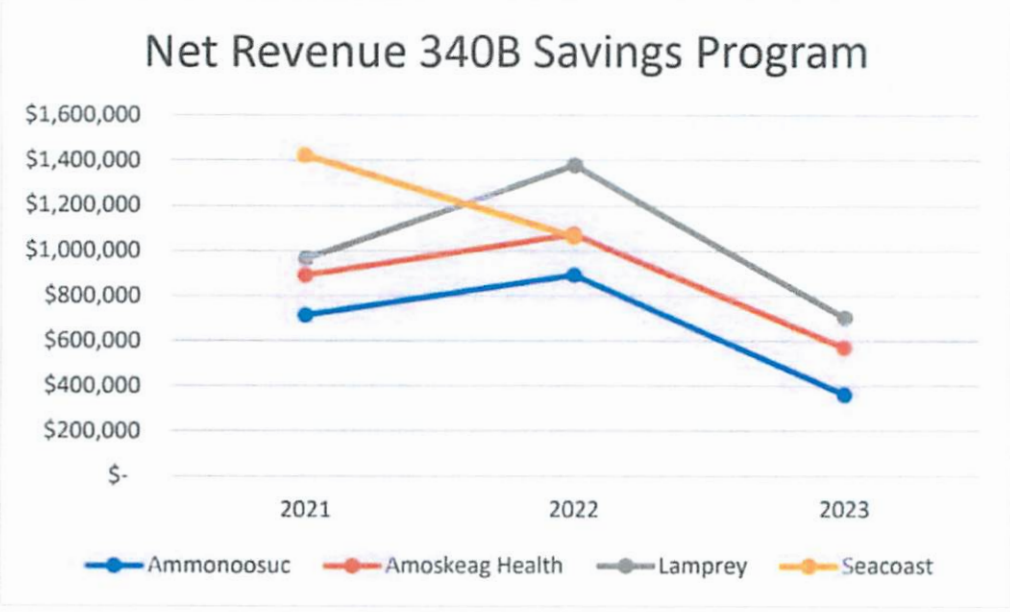
[1] Numbers reflect self-reported data in Bi-State Primary Care Association member surveys.

[2] 340B helps the most vulnerable patients. (2022, September 19). AAMC. https://www.aamc.org/news/340b-helps-most-vulnerable-patients#:~:text=%E2%80%9CThe%20340B%20program%20is%20one%20of%20the%20most,their%20most%20vulnerable%20patients%20and%20communities%2C%E2%80%9D%20he%20says.

including FQHCs. As a result, they have begun cutting back eligible medications and limiting health centers to using only one pharmacy. These actions have a direct impact of reducing the number of patients served. Given that the 340B program accounts for only 3% of pharmaceutical sales and costs taxpayers nothing, the discounts must be protected as a critical source of support for holding together our state's safety net for our most vulnerable patients. If something is not done on a state policy level, and these savings continue to be chipped away by the actions of pharmaceutical companies, other components of the safety net will be put at severe risk, including the ability of covered entities to keep the doors open. For these reasons, thirty-one states have enacted laws that protect 340B-covered entities from discriminatory payer practices.[3]

**Why is SB 557 important?**

It is important to note that FQHCs are experiencing unprecedented challenges to making ends meet due to a perfect storm of financial pressures, including skyrocketing labor and benefit costs; insurance reimbursement rates not keeping pace with the cost of providing care; expiration of support from federal funding sources; and the erosion of 340B savings that have supported deficits in FQHCs' budgets for decades. As of today, eight of 11 New Hampshire FQHCs, which have combined budgets of $126M, are experiencing FY24 year-end losses of almost $8M. The erosion of 340B savings is a major contributor to these losses, ranging from $500K to over $1M at our health centers. The graph below illustrates the trend of reduced revenue from the 340B program at four of New Hampshire's largest FQHCs between 2021 and 2023: My organization, Amoskeag Health, experienced an approximate 53% loss in 340B savings, just as post-pandemic revenues were beginning to increase.[4]




[3] Americas Essential Hospitals. (2024, April 10). State 340B Legislation Protects Drug Access, Sets Reporting Requirements - America's Essential Hospitals. America's Essential Hospitals. https://essentialhospitals.org/policy/state-340b-legislation-protects-drug-access-sets-reporting-requirements

[4] Numbers reflect self-reported data in Bi-State Primary Care Association member surveys.

SB 557 is an opportunity to implement state policy that makes improvements that stabilize 340B savings for organizations like mine. SB 557 prevents entities from "pickpocketing" 340B savings. Pickpocketing refers to a range of practices employed by Pharmaceutical Benefits Managers (PBMs), and others to take savings from the covered entity. There are many ways that PBMs and other middlemen "pickpocket" FQHCs 340B savings. A classic example is when there is a standard reimbursement rate for a drug, but it is reimbursed at a much lower rate if it is purchased under 340B. In this way, the FQHC is deprived of 340B savings on that drug. The result of this bill will be better protection for covered entities, like FQHCs.[5]

On behalf of Amoskeag Health and 11 New Hampshire FQHCs, which provide primary and preventive care to over 91,000 patients and employ over 1,070 Granite Staters, I am grateful for the opportunity to demonstrate our enthusiastic support for SB 557 and its role in safeguarding our ability to continue to provide life-saving health care in our communities. Without state protections in place to shield health centers' 340B savings, it is unquestionable that uninsured and low-income Granite Staters will lose access to affordable medications, and health centers will have no choice but to scale back or eliminate some of our comprehensive services.

Please feel free to contact me if you have any questions.

Thank you,



Kris McCracken, President/CEO
Amoskeag Health
kmccracken@amoskeaghealth.org
603-626-9500

[5] Pennsylvania Association of Community Health Centers. (n.d.). Protect the 340B drug discount Program: Stop pickpocketing. https://pachc.org/wp-content/uploads/2022/12/340B-Discount-Program-Reduced-File.pdf

## Carrie Morris

**From:** Mary Hakken-Phillips
**Sent:** Tuesday, April 30, 2024 10:21 AM
**To:** ~House Commerce Committee
**Subject:** Support for SB557

Mr. Chair and Members of the House Commerce & Consumer Affairs Committee:

I apologize for not being with you in person for the Tuesday, April 30th hearing on SB557 due to an illness. As a co-sponsor of this legislation, I am in support of the bill as presented to the House. The 340B drug pricing program is an important piece of the healthcare access for citizens across the state, but it is also an especially powerful tool for the state's largest private employer and health system, Dartmouth Health, located in the Upper Valley. Therefore, I urge your committee to join the bipartisan group of Senators to approve SB557.

Sincerely,

Rep. Mary A. Hakken-Phillips
Grafton County District 12

newfutures
SOLVING PROBLEMS THROUGH POLICY CHANGE

100 N Main Street
Suite 400
Concord, NH 03301

April 30, 2024

The Honorable John Hunt, Chair
House Commerce and Consumer Affairs Committee
Legislative Office Building, Room 302
33 North State Street
Concord, NH 03301

Re: New Futures' testimony in support of Senate Bill 557, relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program

Dear Chairman Hunt and Honorable Members of the Committee:

New Futures appreciates the opportunity to submit testimony in support of SB 557 (relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program). New Futures is a nonpartisan, nonprofit health policy and advocacy organization that solve New Hampshire's problems through policy change. In this role, we work extensively with policy makers, health care providers and families to increase access to quality, accordable health care and to improve health equity across the Granite State.

New Futures stands in strong support of SB 557 as it would help increase access to affordable prescription drugs through the federal 340B program for New Hampshire patients in need. As you know, 340B requires drug manufacturers to sell outpatient drugs at discounted prices to certain hospitals, community health centers and other health care facilities. These discounts are critical to these facilities, which are then able to reinvest these savings in programs and services necessary to meet the needs of their patients, including dental, behavioral health and other medical care.

Across the country, more than 2,600 health care facilities took part in the program as of January 2023, according to the U.S. Government Accountability Office. However, many participating facilities in New Hampshire are reimbursed at a lesser rate than other providers. This deprives many New Hampshire hospitals, community health centers and other entities of needed costs savings and undercuts their ability to better meet the needs of many of our most vulnerable patients.

As proposed, SB 557 would resolve this concern by requiring insurers, Price Benefit Managers, or other payers to reimburse 340B health care facilities at the same rate as other providers. This would better ensure that these providers have the resources they need to meet patient needs, and will support the health of our most vulnerable families.

For these reasons, we ask that you support SB 557 and vote Ought to Pass. Please do not hesitate to contact me if you have any questions.

Respectfully submitted,



Jake Berry, Vice President of Policy, New Futures

BI-STATE PRIMARY CARE ASSOCIATION
SERVING VERMONT & NEW HAMPSHIRE
*Improving Access to Primary Health Care Since 1986*

April 30, 2024

Representative John Hunt, Chairman
House Commerce and Consumer Affairs Committee
Legislative Office Building, Room 302-304
33 N. State Street Concord, NH 03301

Re: SB 557 relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program

Dear Chairman Hunt and Members of the House Commerce and Consumer Affairs Committee:

Thank you for the opportunity to speak in support of SB 557 relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program. Bi-State and our members respectfully request the committee vote SB 557 "ought to pass."

**Bi-State Primary Care Association and its Members**
Bi-State Primary Care Association is a non-profit organization that works to expand access to primary and preventive care for all New Hampshire residents. Bi-State's members include community health centers (CHCs), federally qualified health centers (FQHCs), New Hampshire Area Health Education Center programs, clinics for the uninsured, networks, and consortia. Today, Bi-State represents 11 community health centers that serve 1 out of every 14 New Hampshire residents. Approximately 36% of health center patients are commercially insured, 35% are insured by Medicaid, 19% are insured by Medicare, and approximately 10% are uninsured.

**What is the 340B Drug Pricing Program?**
Established in 1992 through Section 340B of the Public Health Services Act, the 340B Drug Pricing Program (340B) allows qualifying health care organizations, including community health centers, to purchase drugs at reduced prices, ensuring that low-income patients have access to affordable prescription drugs. As a condition of participating in Medicaid, drug manufacturers are required to provide drugs at a discount to community health centers and other safety-net providers (these providers are referred to as "covered entities" in the 340B statute).

Providing access to a full range of affordable comprehensive services, including pharmacy services, is a key component of the community health center model. The 340B Drug Pricing Program allows the health centers to do just that. Community health centers are required by federal law, by regulation, and by mission to ensure that the savings they receive by purchasing discounted medications through the 340B Program are reinvested into health center programs and services, enabling providers to serve more patients with more

comprehensive services. Each CHC uses 340B savings to fund the greatest areas of unmet need among its patients and in its community. The health centers' patient-majority boards ensure that patients come first.

Due to CHCs' slim operating margins, these savings are integral to their ability to sustain ongoing operations, add to their service lines, and retain their workforce. With 340B savings, CHCs provide discounts on prescription drugs, SUD services, dental services, nutrition services, school-based services, mobile primary health care services, transportation, translation, and many other services to their patients. This use of savings is consistent with Congressional intent for the program, which is to allow providers to "stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services."

In 2022, New Hampshire health centers' 340B savings were $14,247,226, which is approximately 20% of the health centers' net patient service revenue. The viability of 340B is integral to the health centers' ability to provide health care services to Granite Staters. Unfortunately, the health centers have experienced declines in 340B savings due to ambiguities in federal law, which affects the sustainability of the services offered by the health centers. SB 557 is an opportunity to make incremental improvements to ensure stability to the health centers' 340B savings and access to the critical services their patients need.

**Why SB 557 is Necessary to Protect the Health Centers' 340B Savings – A Hypothetical**
A health center can purchase a common cholesterol medication in the 340B Program for $75. The non-340B price is $100. Patient A and Patient B take the same cholesterol drug. Patient A has insurance, which typically reimburses $100 for the cost of the medication. Patient B is uninsured and pays $5 for the prescription using the health centers' sliding fee discount. The health center loses $70 for Patient B's prescription. While the insurance company's typical reimbursement for this medication is $100, it discovers that the medication was purchased using the 340B discount and reduces the reimbursement to the 340B acquisition price of $70, eliminating any savings the health center would have otherwise received if it were treated as a non-covered entity. The consequence is that the health center loses money on the uninsured patient's prescription and the insured patient's prescription, and the 340B Drug Pricing Program intended that the health center receive savings where possible. In this hypothetical, the health center should have retained savings from the commercially insured patient's prescription, and the savings would support the health center's services, its patients, and its community.

SB 557 seeks to clarify and protect the intent of the 340B Drug Pricing Program by requiring insurers, pharmacy benefit managers, or other third-party payers to treat prescriptions written by community health centers (covered entities) the same as non-health center prescriptions. This protection will allow for better predictability and reliability of the 340B savings and will result in health centers receiving the same reimbursement a non-covered entity would receive for an identical prescription.

Included below are real-life patient stories, collected by Bi-State, that demonstrate how the savings from the 340B Drug Pricing Program benefit the health centers and most importantly, their patients.

For the above reasons and more, we respectfully request your support of SB 557.

Please feel free to contact me if you have any questions.

Thank you,



Georgia J. Maheras, Esq.
SVP, Policy and Strategy
Bi-State Primary Care Association

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**Patient Stories**

"We have a 40-year-old client with diabetes. At one point, he was on his wife's insurance and the copay for insulin was $300, so he was rationing his insulin and taking it every other day. One of our doctors told him about the 340B program and prescribed his insulin to Walgreens. The client told me that he is now taking his insulin every day, he is motivated to make changes to avoid diabetes complications, and his fasting blood sugars are now within the ADA guidelines for fasting blood sugar. His postprandial are still a little elevated so he is going to talk to Dr. [name removed] about starting a non-insulin injectable, which is on the 340B program as well. I informed him that Lantus is no longer on 340B but can be substituted for a different insulin and encouraged him to call for the refill early so that he doesn't run out."

"We have a patient with a Deep Vein Thrombosis being prescribed Eliquis but cannot afford it even though it is covered by insurance. Due to the number of medications being pulled from 340B, Pradaxa is the only medication in the same class that we can provide. Unfortunately, the patient also takes Verapamil which excludes Pradaxa (drug-to-drug interaction). The only options would be Eliquis or Xarelto to avoid an interaction. We can only provide these if the patient qualifies for the manufacturers' Indigent Drug Programs. Both programs require the patient to have already spent (since Jan. 1) either 3 or 4% of their total household income before they will approve. The manufacturers require between 3 and 5 days minimum to process an application, 10 to 14 days for shipping, and will not expedite for any reason."

"L.B. from Rockingham County uses the [health center name removed] 340B program, as she has multiple health conditions including bipolar disorder, COPD, history of concussions, severe anxiety, and cardiac conditions. L.B. reports that when she uses her Humana Health Insurance her medication bills amount to over $595 per month, which is unaffordable for her. Without the reduced price from the 340B program, she could not afford her medications. If she lost access to the 340B program, she stated she would be "homeless" as she would not be able to afford both her rent and her medications. She earns $1,000 per month from Social Security. L.B. stated she appreciates the 340B program immensely and does not know what she would do without it."

"D.S. lives in Rockingham County and uses the 340B program at [health center name removed]. D.S is diabetic and insulin dependent. D.S. pays $45 for Humalog [with the 340B program]. A vial of his insulin used to cost hundreds of dollars. D.S. reports he "might as well die" if the 340B program ends. He cannot afford his diabetes medication without the help of the 340B program. This is what insulin dependence means: It keeps him alive. He has a 13-year-old, and he wants to be around for him. 'I can manage my diabetes with the medicine from the 340B program. Without being able to afford the medicine I cannot manage my diabetes,' D.B. stated."

"J.B. lives in Strafford County. He is a diabetic and needs Humalog and Lancet. He uses the 340B program because if he uses health insurance, it costs him over $300/month. He pays a small amount for his insulin through the 340B program. J.B. shared that he just learned recently that his rent is increasing $500 per month because new people purchased the building and will be improving the facility and upgrading it. He will probably have to move to a less expensive place if he can find one. He reports that 'everything is going to get turned upside down for me soon, but I am thankful that I have the 340B program for my medicine because I do not know how I am going to afford my new rent and my medicine.'"

"A young patient shared their story of how important this program is for them, saying 'I have suffered from treatment-resistant depression since I was 12 years old, and I finally found a medication that helps me. I was given samples to start but [when I tried to get more], it was $444 for a 30-day supply and there was no way I could afford that.' Using the 340B program, staff at [health center name removed] reduced that price to less than $100. They shared, 'I can't imagine what I would do if it weren't for the 340B program helping with the price of my medication. Please protect this.'"

*<u>Please note</u>: New Hampshire passed a statute in 2020 that limits the cost sharing for each insulin prescription filled to $30 per prescription for a 30-day supply. This statute only applies to commercial plans regulated by the State of New Hampshire. It does not benefit patients who are uninsured or patients who have a commercial plan regulated by the federal government (aka ERISA plans). Additionally, the statute applies to each prescription. Patients may have more than one prescription within a 30-day timeframe, including both short- and long-acting insulin.*

**How New Hampshire Community Health Centers Invest Savings from the 340B Program**
(in their own words)

- Nursing staff dedicated to Hepatitis C treatment.
- Integrated clinics at Community Mental Health Centers – previously supported by Medicaid 1115 Waiver pilot funding, 340B backfills the cost of non-reimbursable services like multidisciplinary care team huddles.
- Employing seven Community Health Workers, a majority of whom are not funded by specific grants and whose services are not billable.
- Mobile Health Unit services – billable activity generated from visits provided on the van is not sufficient to support the entirety of its operation. The Mobile Health Unit now visits 5 distinct locations each week, and 340B resources allow us to support this activity as state-provided resources have been eliminated.

- Interpreter services at one of our more urban sites – over 60% of our patients there are best served in a language that is not English.
- Activities undertaken by our Quality Assurance staff are supported by 340B resources. Some payers offer performance incentives, but these payments from third parties are rarely big enough, nor timely enough, to support the payroll dedicated to these important efforts.
- Supporting our interpretation services, which now cost us over $600,000 per year. In New Hampshire, we are the [community health center] with the greatest amount of diversity and interpretation needs. We do not receive reimbursement for these services, and we do not receive any more funds from the [S]tate because of this differentiator. 340B [savings] cover these expenses for us.

April 30, 2024

Representative John Hunt, Chairman
House Commerce and Consumer Affairs Committee
Legislative Office Building, Room 302-304
33 N. State Street Concord, NH 03301

Dear Chairman Hunt and Members of the House Commerce and Consumer Affairs Committee:

Thank you for the opportunity to speak in support of SB 557 relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program. My name is Kris McCracken, and I am the President and Chief Executive Officer of Amoskeag Health, a federally qualified health center (FQHC) with 5 sites in Manchester. We deliver integrated primary care, including prenatal care, behavioral health services, substance use disorder treatment, chronic disease management, cancer screenings, and social services to approximately 16,000 patients from Manchester and neighboring towns.

SB 557, if passed into law, would protect health care providers that participate in the 340B Drug Pricing Program from discriminatory practices by pharmacy benefit managers (PBMs), health insurance issuers, and other third-party payers. Due to increasing threats to the 340B program, we are asking our elected officials to enact state-level protections that will allow FQHCs and other health care providers to continue to access 340B savings that help huge numbers of patients, particularly in the Granite State's rural and medically underserved regions.

**How did the 340B Drug Pricing Program get started?**
The 340B Drug Pricing Program was created in 1992 to meet the needs of underserved populations and the organizations that serve them, including FQHCs. This federal law requires pharmaceutical companies to provide discounts on outpatient drugs to providers serving a large number of uninsured and underinsured patients. When Congress created the 340B program, they stated that the program's purpose was to enable "covered entities" to stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services. The program includes FQHCs, safety net hospitals, children's hospitals, outpatient cancer center hospitals, and many rural providers including critical access hospitals, rural referral centers, and sole community hospitals.

**How does the 340B program work?**
Pharmaceutical companies, as a condition for participating in Medicaid, provide discounts on outpatient drugs directed to covered entities.

**What are New Hampshire FQHCs and other covered entities doing with the savings from the program discounts?**
There are two primary ways the 340B program benefits FQHCs and our patients:

1. FQHCs use the savings from the program discounts to provide needed medications for free or at substantially discounted prices for our uninsured and low-income patients.
2. 340B savings are also a substantial part of our ability to improve the health of underserved populations: Our health centers use 340B savings to support services and programs that our communities need most. These services, which are different for every health center based on community need, include: mental health and substance use disorder treatment, dental care, mobile health, hepatitis C treatment, housing supports, transportation, translation, and community health worker outreach. 340B also covers the costs of non-reimbursable services and allows health centers to employ critical staff whom are not funded by specific grants and whose services are not billable. Many of the services supported by 340B yield cost savings and better health outcomes.

In 2022, New Hampshire FQHCs received $14M in 340B savings, representing 20% of our patient services revenue.[1]

*The ability to purchase medications at a reduced cost is extremely helpful to patients that have no insurance, and when they are ineligible for coverage, but still have chronic medical conditions that need to be treated with medication that can sometimes be very costly. For example, we have a patient who works as a consultant. She is self-employed, but makes more than 138% of the poverty level, the level needed to qualify for Medicaid. Her income is not very high, was around $40,000 a year, but the poverty level is so low, that she did not qualify (for a family of 2, $2,266/month, or about $27,000/yr). While self-employed, she was able to use our 340B program to buy her medicine at a nominal cost ($4 to $12 month for medications on the formulary, plus the $15 dispensing fee, or a max of $19-$27 per medication). These rates were affordable and she was able to continue safely on her medication at a cost she could afford. If she had to purchase these medications out of pocket, they would have cost well over $300/mo. She did eventually move back into a employment situation that offered health benefits, but she tells everyone we saved her life during that time by allowing her to continue to take her medications for her heart condition, thyroid and cholesterol.*

**Does the program cost taxpayers money?**

No, the program costs New Hampshire taxpayers $0. What funds the program are the discounts provided by pharmaceutical companies directly to their providers.

**How much does the program cost pharmaceutical companies?**

Total 340B sales in the U.S. represent less than 3% of U.S. drug sales.[2] This percentage has remained steady, and pharmaceutical companies have been able to maintain their profit margins.

**Right now, why is the 340B program in danger?**

The 340B program has been under attack since 2020, as pharmaceutical companies increasingly do not want to sell their medications at a reduced rate to covered entities

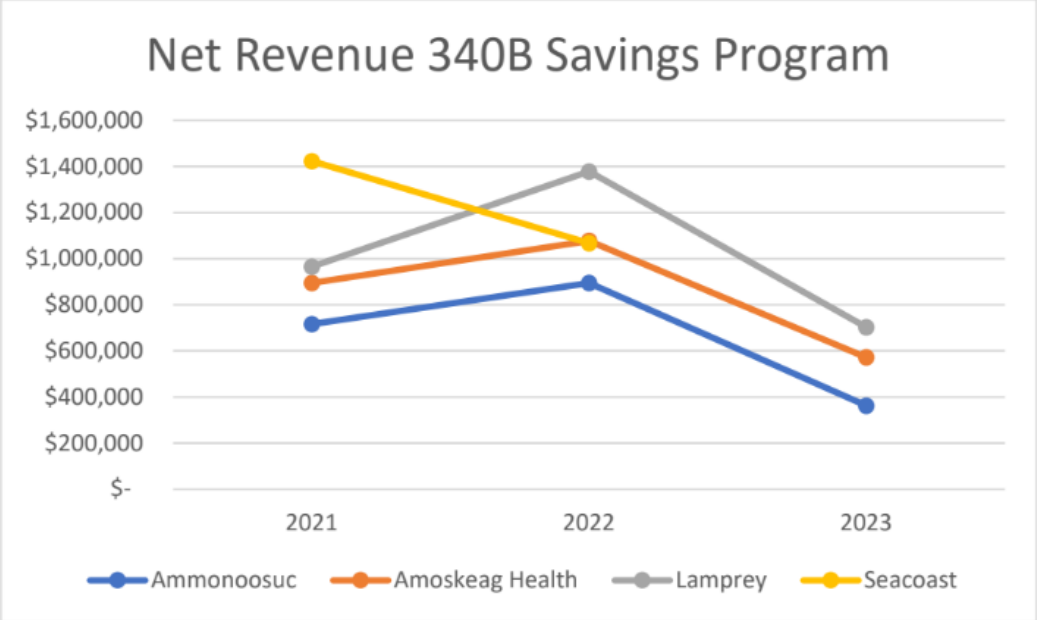
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including FQHCs. As a result, they have begun cutting back eligible medications and limiting health centers to using only one pharmacy. These actions have a direct impact of reducing the number of patients served. Given that the 340B program accounts for only 3% of pharmaceutical sales and costs taxpayers nothing, the discounts must be protected as a critical source of support for holding together our state's safety net for our most vulnerable patients. If something is not done on a state policy level, and these savings continue to be chipped away by the actions of pharmaceutical companies, other components of the safety net will be put at severe risk, including the ability of covered entities to keep the doors open. For these reasons, thirty-one states have enacted laws that protect 340B-covered entities from discriminatory payer practices.[3]

**Why is SB 557 important?**

It is important to note that FQHCs are experiencing unprecedented challenges to making ends meet due to a perfect storm of financial pressures, including skyrocketing labor and benefit costs; insurance reimbursement rates not keeping pace with the cost of providing care; expiration of support from federal funding sources; and the erosion of 340B savings that have supported deficits in FQHCs' budgets for decades. As of today, eight of 11 New Hampshire FQHCs, which have combined budgets of $126M, are experiencing FY24 year-end losses of almost $8M. The erosion of 340B savings is a major contributor to these losses, ranging from $500K to over $1M at our health centers. The graph below illustrates the trend of reduced revenue from the 340B program at four of New Hampshire's largest FQHCs between 2021 and 2023: My organization, Amoskeag Health, experienced an approximate 53% loss in 340B savings, just as post-pandemic revenues were beginning to increase.[4]




[3] Americas Essential Hospitals. (2024, April 10). State 340B Legislation Protects Drug Access, Sets Reporting Requirements - America's Essential Hospitals. America's Essential Hospitals. https://essentialhospitals.org/policy/state-340b-legislation-protects-drug-access-sets-reporting-requirements

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SB 557 is an opportunity to implement state policy that makes improvements that stabilize 340B savings for organizations like mine. SB 557 prevents entities from "pickpocketing" 340B savings. Pickpocketing refers to a range of practices employed by Pharmaceutical Benefits Managers (PBMs), and others to take savings from the covered entity. There are many ways that PBMs and other middlemen "pickpocket" FQHCs 340B savings. A classic example is when there is a standard reimbursement rate for a drug, but it is reimbursed at a much lower rate if it is purchased under 340B. In this way, the FQHC is deprived of 340B savings on that drug. The result of this bill will be better protection for covered entities, like FQHCs.[5]

On behalf of Amoskeag Health and 11 New Hampshire FQHCs, which provide primary and preventive care to over 91,000 patients and employ over 1,070 Granite Staters, I am grateful for the opportunity to demonstrate our enthusiastic support for SB 557 and its role in safeguarding our ability to continue to provide life-saving health care in our communities. Without state protections in place to shield health centers' 340B savings, it is unquestionable that uninsured and low-income Granite Staters will lose access to affordable medications, and health centers will have no choice but to scale back or eliminate some of our comprehensive services.

Please feel free to contact me if you have any questions.

Thank you,



Kris McCracken, President/CEO
Amoskeag Health
kmccracken@amoskeaghealth.org
603-626-9500

[5] Pennsylvania Association of Community Health Centers. (n.d.). Protect the 340B drug discount Program: Stop pickpocketing. https://pachc.org/wp-content/uploads/2022/12/340B-Discount-Program-Reduced-File.pdf

LAMPREY HEALTH CARE
Where Excellence and Caring go Hand in Hand



April 30, 2024

Representative John Hunt, Chairman
House Commerce and Consumer Affairs Committee
Legislative Office Building, Room 302-304
33 N. State Street Concord, NH 03301

Dear Chairman Hunt and Members of the House Commerce and Consumer Affairs Committee:

Thank you for the opportunity to speak in support of SB 557 relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program. My name is Greg White, and I am the Co-Chief Executive Officer of Lamprey Health Care, a federally qualified health center (FQHC) with sites in Nashua, Newmarket, and Raymond, as well as a mobile health unit and several integrated care locations across the community. Our FQHC delivers integrated primary care, including prenatal care, cancer screenings, mental health and substance use disorder treatment, mobile clinics, veteran services, and health care for the homeless to approximately 16,000 patients from over 40 communities within Rockingham, Hillsborough, and parts of Strafford Counties.

SB 557, if passed into law, would protect health care providers that participate in the 340B Drug Pricing Program from discriminatory practices by pharmacy benefit managers (PBMs), health insurance issuers, and other third-party payers. Due to increasing threats to the 340B program, we are asking our elected officials to enact state-level protections that will allow FQHCs and other health care providers to continue to access 340B savings that help huge numbers of patients, particularly in the Granite State's rural and medically underserved regions.

**How does the 340B program work?**
Pharmaceutical companies, as a condition for participating in Medicaid, provide discounts on outpatient drugs directed to "covered entities" including FQHCs, safety net hospitals, children's hospitals, outpatient cancer center hospitals, and many rural providers including critical access hospitals, rural referral centers, and sole community hospitals.

**What are New Hampshire FQHCs and other covered entities doing with the savings from the program discounts?**
There are two primary ways the 340B program benefits FQHCs and our patients:

1. FQHCs use the savings from the program discounts to provide needed medications for free or at substantially discounted prices for our uninsured and low-income patients.
2. 340B savings are also a substantial part of our ability to improve the health of underserved populations: Our health centers use 340B savings to support services and

programs that our communities need most. These services, which are different for every health center based on community need, include: mental health and substance use disorder treatment, dental care, mobile health, hepatitis C treatment, housing supports, transportation, translation, and community health worker outreach. 340B also covers the costs of non-reimbursable services and allows health centers to employ critical staff whom are not funded by specific grants and whose services are not billable. Many of the services supported by 340B yield cost savings and better health outcomes.

In 2022, New Hampshire FQHCs received $14M in 340B savings, representing 20% of our patient services revenue.[1]

At Lamprey, we are acutely aware of numerous patients with chronic diseases like diabetes and hypertension that would have otherwise not had access to life sustaining medications, had it not been for the discounted pricing afforded to them by the 340b program.

**Does the program cost taxpayers money?**

No, the program costs New Hampshire taxpayers $0. What funds the program are the discounts provided by pharmaceutical companies directly to their providers.

**How much does the program cost pharmaceutical companies?**

Total 340B sales in the U.S. represent less than 3% of U.S. drug sales.[2] This percentage has remained steady, and pharmaceutical companies have been able to maintain their profit margins.

**Right now, why is the 340B program in danger?**

The 340B program has been under attack since 2020, as pharmaceutical companies increasingly do not want to sell their medications at a reduced rate to covered entities including FQHCs. As a result, they have begun cutting back eligible medications and limiting health centers to using only one pharmacy. These actions have a direct impact of reducing the number of patients served. If something is not done on a state policy level, and these savings continue to be chipped away by the actions of pharmaceutical companies, other components of the safety net will be put at severe risk, including the ability of covered entities to keep the doors open.

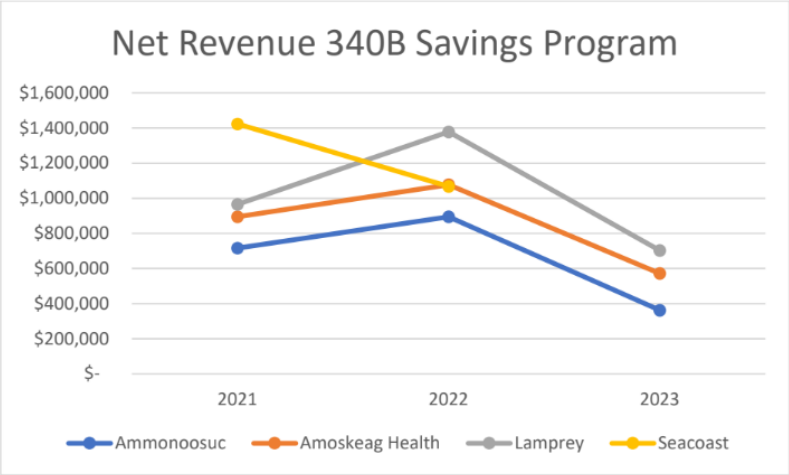
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It is important to note that FQHCs are experiencing unprecedented challenges to making ends meet due to a perfect storm of financial pressures, including skyrocketing labor and benefit costs; insurance reimbursement rates not keeping pace with the cost of providing care; expiration of support from federal funding sources; and the erosion of 340B savings that have supported deficits in FQHCs' budgets for decades. As of today, eight of 11 New Hampshire FQHCs, which have combined budgets of $126M, are experiencing FY24 year-end losses of almost $8M. The erosion of 340B savings is a major contributor to these losses, ranging from

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$500K to over $1M at our health centers. The graph below illustrates the trend of reduced revenue from the 340B program at four of New Hampshire's largest FQHCs between 2021 and 2023: My organization, Lamprey Health Care, experienced a 49% loss in 340B savings.[3]




SB 557 is an opportunity to implement state policy that makes improvements that stabilize 340B savings for organizations like mine. SB 557 prevents entities from "pickpocketing" 340B savings. Pickpocketing refers to a range of practices employed by Pharmaceutical Benefits Managers (PBMs), and others to take savings from the covered entity. There are many ways that PBMs and other middlemen "pickpocket" FQHCs 340B savings. A classic example is when there is a standard reimbursement rate for a drug, but it is reimbursed at a much lower rate if it is purchased under 340B. In this way, the FQHC is deprived of 340B savings on that drug. The result of this bill will be better protection for covered entities, like FQHCs.[4]

On behalf of Lamprey Health Care and 11 New Hampshire FQHCs, which provide primary and preventive care to over 91,000 patients and employ over 1,070 Granite Staters, I am grateful for the opportunity to demonstrate our enthusiastic support for SB 557 and its role in safeguarding our ability to continue to provide life-saving health care in our communities. Without state protections in place to shield health centers' 340B savings, it is unquestionable that uninsured and low-income Granite Staters will lose access to affordable medications, and health centers will have no choice but to scale back or eliminate some of our comprehensive services.

Please feel free to contact me if you have any questions.

Thank you,

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Greg White
Co-Chief Executive Officer
Lamprey Health Care
gwhite@lampreyhealth.org
603-292-7214

April 30, 2024

Representative John Hunt, Chairman
House Commerce and Consumer Affairs Committee
Legislative Office Building, Room 302-304
33 N. State Street Concord, NH 03301

Dear Chairman Hunt and Members of the House Commerce and Consumer Affairs Committee:

Thank you for the opportunity to speak in support of SB 557 relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program. My name is Russell Keene, and I am the Chief Executive Officer of HealthFirst Family Care Center, a federally qualified health center (FQHC) with sites in Franklin, Laconia, and Canaan. We deliver integrated primary care, including cancer screenings, chronic disease management and education, behavioral health counseling, substance use disorder treatment, housing supports, transportation, and social services to over 6,000 patients from 23 rural townships within the Twin Rivers and Lakes Region.

SB 557, if passed into law, would protect health care providers that participate in the 340B Drug Pricing Program from discriminatory practices by pharmacy benefit managers (PBMs), health insurance issuers, and other third-party payers. Due to increasing threats to the 340B program, we are asking our elected officials to enact state-level protections that will allow FQHCs and other health care providers to continue to access 340B savings that help huge numbers of patients, particularly in the Granite State's rural and medically underserved regions.

**How does the 340B program work?**
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**Why is SB 557 important?**

It is important to note that FQHCs are experiencing unprecedented challenges to making ends meet due to a perfect storm of financial pressures, including skyrocketing labor and benefit costs; insurance reimbursement rates not keeping pace with the cost of providing care; expiration of support from federal funding sources; and the erosion of 340B savings that have supported deficits in FQHCs' budgets for decades. As of today, eight of 11 New Hampshire FQHCs, which have combined budgets of $126M, are experiencing FY24 year-end losses of almost $8M. The erosion of 340B savings is a major contributor to these losses, ranging from $500K to over $1M at our health centers.

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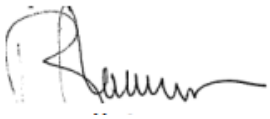
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Russell G. Keene
Chief Executive Officer
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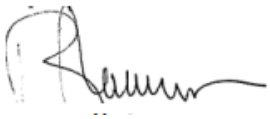
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GREATER SEACOAST COMMUNITY HEALTH

Goodwin Community Health | Families First | Lilac City Pediatrics

April 30, 2024

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Legislative Office Building, Room 302-304
33 N. State Street Concord, NH 03301

Dear Chairman Hunt and Members of the House Commerce and Consumer Affairs Committee:

Thank you for the opportunity to speak in support of SB 557 relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program. My name is Jim Avrett, and I am the Chief Executive Officer of Greater Seacoast Community Health, a federally qualified health center (FQHC) with sites in Portsmouth and Somersworth, as well as a mobile health unit and several integrated care locations across the community. We deliver integrated primary care, including dental, prenatal care, behavioral health counseling, substance use disorder treatment, mobile clinics, home visiting, and social work services to over 14,000 patients from the Greater Seacoast region of New Hampshire and Southern Maine.

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There are two primary ways the 340B program benefits FQHCs and our patients:

1. FQHCs use the savings from the program discounts to provide needed medications for free or at substantially discounted prices for our uninsured and low-income patients.
2. 340B savings are also a substantial part of our ability to improve the health of underserved populations: Our health centers use 340B savings to support services and programs that our communities need most. These services, which are different for every health center based on community need, include: mental health and substance use disorder treatment, dental care, mobile health, hepatitis C treatment, housing supports, transportation, translation, and community health worker outreach. 340B also covers

the costs of non-reimbursable services and allows health centers to employ critical staff whom are not funded by specific grants and whose services are not billable. Many of the services supported by 340B yield cost savings and better health outcomes.

In 2022, New Hampshire FQHCs received $14M in 340B savings, representing 20% of our patient services revenue.[1]

**So, how does the 340b program help NH residents in real life?**
We have so many testimonials. For example one of our patients shared their story of how important this program is for them, saying "I have suffered from treatment-resistant depression since I was 12 years old, and I finally found a medication that helps me. I was given samples to start but [when I tried to get more], it was $444 for a 30 day supply and there was no way I could afford that." Using the 340B program, staff at Goodwin Community Health Center reduced that price to less than $100. The patient shared, "I can't imagine what I would do if it weren't for the 340B program helping with the price of my medication. Please protect this."

Another patient, living in Strafford County, uses the 340B program to access insulin for their diabetes, paying $45 a month for 3 vials of insulin instead of $400 a month for 1 vial. This person just learned that their rent is being increased by several hundred dollars; an unexpected monthly jump in cost. Losing the 340B benefit right now would be devastating, as this person is already dealing with rising costs of living. They shared that without 340B, "Everything [would] get turned upside down for me."

**Does the program cost taxpayers money?**
No, the program costs New Hampshire taxpayers $0. What funds the program are the discounts provided by pharmaceutical companies directly to their providers.

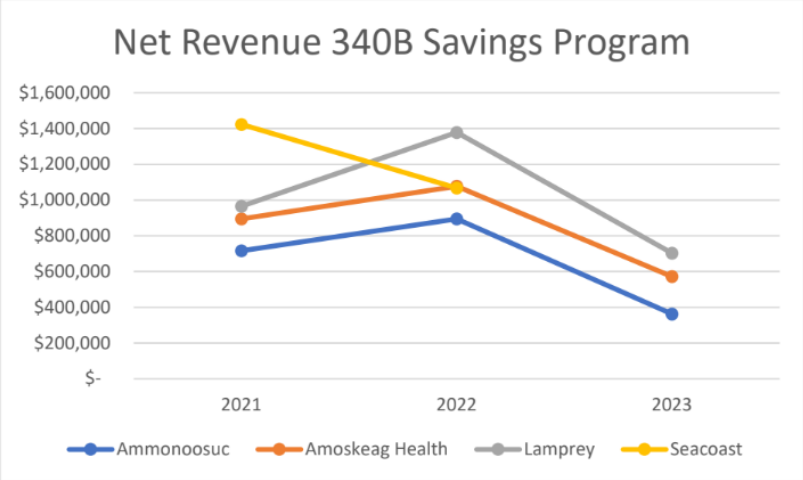
**How much does the program cost pharmaceutical companies?**
Total 340B sales in the U.S. represent less than 3% of U.S. drug sales.[2] This percentage has remained steady, and pharmaceutical companies have been able to maintain their profit margins.

**Right now, why is the 340B program in danger?**
The 340B program has been under attack since 2020, as pharmaceutical companies increasingly do not want to sell their medications at a reduced rate to covered entities including FQHCs. As a result, they have begun cutting back eligible medications and limiting health centers to using only one pharmacy. These actions have a direct impact of reducing the number of patients served. If something is not done on a state policy level, and these savings continue to be chipped away by the actions of pharmaceutical companies, other components of the safety net will be put at severe risk, including the ability of covered entities to keep the doors open.

[1] Numbers reflect self-reported data in Bi-State Primary Care Association member surveys.
[2] 340B helps the most vulnerable patients. (2022, September 19). AAMC. https://www.aamc.org/news/340b-helps-most-vulnerable-patients#:~:text=%E2%80%9CThe%20340B%20program%20is%20one%20of%20the%20most,their%20most%20vulnerable%20patients%20and%20communities%2C%E2%80%9D%20he%20says.

**Why is SB 557 important?**

It is important to note that FQHCs are experiencing unprecedented challenges to making ends meet due to a perfect storm of financial pressures, including skyrocketing labor and benefit costs; insurance reimbursement rates not keeping pace with the cost of providing care; expiration of support from federal funding sources; and the erosion of 340B savings that have supported deficits in FQHCs' budgets for decades. As of today, eight of 11 New Hampshire FQHCs, which have combined budgets of $126M, are experiencing FY24 year-end losses of almost $8M. The erosion of 340B savings is a major contributor to these losses, ranging from $500K to over $1M at our health centers. The graph below illustrates the trend of reduced revenue from the 340B program at four of New Hampshire's largest FQHCs between 2021 and 2023: My organization experienced a 25% loss from 2021-2022 (we operate on a calendar fiscal year, so 2023 data is not yet available).[3]




SB 557 is an opportunity to implement state policy that makes improvements that stabilize 340B savings for organizations like mine. SB 557 prevents entities from "pickpocketing" 340B savings. Pickpocketing refers to a range of practices employed by Pharmaceutical Benefits Managers (PBMs), and others to take savings from the covered entity. There are many ways that PBMs and other middlemen "pickpocket" FQHCs 340B savings. A classic example is when there is a standard reimbursement rate for a drug, but it is reimbursed at a much lower rate if it is purchased under 340B. In this way, the FQHC is deprived of 340B savings on that drug. The result of this bill will be better protection for covered entities, like FQHCs.[4]

On behalf of Greater Seacoast Community Health and 11 New Hampshire FQHCs, which provide primary and preventive care to over 91,000 patients and employ over 1,070 Granite Staters, I am grateful for the opportunity to demonstrate our enthusiastic support for SB 557 and its role in safeguarding our ability to continue to provide life-saving health care in our communities. Without state protections in place to shield health centers' 340B savings, it is unquestionable

[3] Numbers reflect self-reported data in Bi-State Primary Care Association member surveys.

[4] Pennsylvania Association of Community Health Centers. (n.d.). Protect the 340B drug discount Program: Stop pickpocketing. https://pachc.org/wp-content/uploads/2022/12/340B-Discount-Program-Reduced-File.pdf

that uninsured and low-income Granite Staters will lose access to affordable medications, and health centers will have no choice but to scale back or eliminate some of our comprehensive services.

Please feel free to contact me if you have any questions.

Thank you,



Jim Avrett
Chief Executive Officer
Greater Seacoast Community Health
javrett@goodwinch.org
603-994-6347

# AMMONOOSUC COMMUNITY HEALTH SERVICES, INC.

April 30, 2024

Dear Chaiman Hunt and Members of the House Commerce and Consumer Affairs Committee:

On behalf of Ammonoosuc Community Health Services (ACHS), our patient-majority board of directors, staff, and patients, I am writing testimony with regard to **SB 557 - AS INTRODUCED 2024 SESSION 24-3094 09/10 SENATE BILL 557 AN ACT relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program.**
Historically ACHS being a Federally Qualified Health Center (FQHC) is a 340B covered entity. ACHS has participated in the 340B drug pricing program with an in-house pharmacy as well as through contract pharmacies. ACHS has done through in a compliant manner, carving out NH Medicaid, avoiding duplicate discounts, and avoiding diversion through appropriate corporate compliance systems. Our compliance was confirmed and validated by an Office of Pharmacy Affairs on-site audit.
ACHS patients have directly benefited from the savings with ACHS reinvesting the savings into three areas consistent with our mission.

1. RX assistance to access medications through the ACHS – Inhouse pharmacy (Closed in 2018 due to predatory contracting of PBMs) and through multi contract pharmacies (constrained due to unilateral pharmaceutical companies' restriction to single rather than multiple contract pharmacies).
2. Patient Navigational Services to address the Vital Conditions for Health and Wellness (also known as Social Determinants of Health including and not limited to transportation)
3. Integrated Dental and Oral Health Services. ACHS had to close a five operatory fixed dental practice and implement a minimal voucher program in 2020 due to the erosion of 340B savings.

ACHS as an FQHC and our patients have been adversely affected by discriminatory and predatory 340B contracting that siphons savings away from patient to PBMs and their share holders as well as the restriction of one (FQHC) to many (local pharmacies) to a one (FQHC covered entity not sibling locations) to one (local pharmacy). The latter restriction has not only further eroded the 340B savings and the henceforth services these savings were invested, it has also restricted access to patient to medically necessary medications. ACHS has five care delivery locations across the twenty-six towns of our services area where over 31,000 New Hampshire residents live, work, and play of whom 1 in 3 call ACHS their community health center of choice (ACHS has a 97% patient promoter rating). As such a single pharmacy impedes access to medically necessary medications with an out weighted impact on our patients who live below 200% of federal poverty and hence qualify for a sliding-fee-discount on their medications. One pharmacy for 26 towns in no world is acceptable.

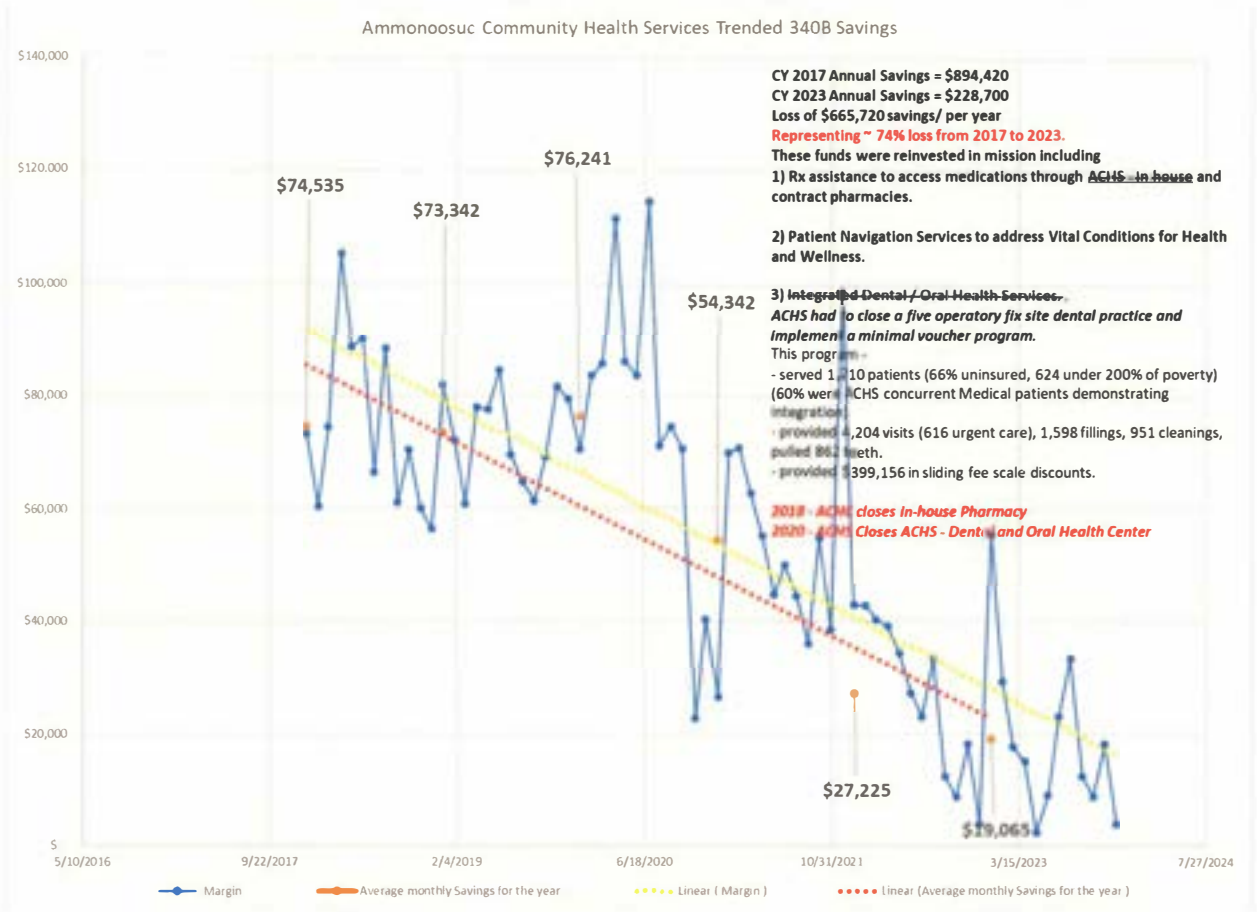
The economic erosion of the 340B savings in calendar years 2017 – 2023 has been a 74% erosion from $893,420 to $228,700! (see ***Figure 1: Trended erosion of the 340B savings calendar years 2017 – 2023 below***).

In human terms and at an average of $202 / patient visit based on the national average for FQHC Prospective Payment System (PPS) rate corelates to 3,295 primary care patient visits. At a national average of 4 visits per person per year this is ~ 824 unduplicated patients.

The closing of our in – house Pharmacy in 2018 was due to predatory PBM contracting using "special 340B" contracts whereby a portion of the 340B savings was siphoned to dividends on Wall Street.

The closing of our ACHS – Dental and Oral Health Services was due to unilateral action by pharmaceutical manufacturers related to contract pharmacies. In and above the impact financially, this has resulted in a hardship for patient access to "THE PHARMACY" especially our sliding - fee – scale patients who get their care from ACHS – Littleton, ACHS – Whitefield, ACHS – Franconia, ACHS – Woodsville, and ACHS – Warren. Exactly which single pharmacy shall I choose.
Patients' lives or Shareholders dividends should be a false dichotomy, yet in reality the shareholders dividends may be more than fair and equitable if one considers the impact on morbidity and mortality of our friends, families, and neighbors.

***Figure 1: Trended erosion of the 340B savings calendar years 2017 – 2023.***




As an FQHC that has and continues to be compliant with the 340B savings program rules and regulations, this categorical discrimination against ACHS as a dragnet is inconsistent with the 4th amendment of the US Constitution and may be inconsistent with free trade as determined by the Federal Trade Commission. The continuance of such behavior is adversely affecting the morbidity and mortality of the patients we serve, who are your constituents, your friends, families, and neighbors. This must stop!

Be mindful, be active, and be well,

Ed

Edward D Shanshala II, MSHSA, MSEd
CEO
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603-991-7756

Kirk Williamson

Kirk Williamson - Executive Director of the New Hampshire Prescription Drug Affordability Board
Neutral - representing myself and not the PDAB.

I take no position on the bill nor does the PDAB - I'm attending the hearing to answer technical questions on the bill or the 340B program by members of the committee, should they have any.

I do not need to speak unless members have technical questions they wish to ask.

Mary Hakken-Phillips

Dear Members of the House Commerce Committee:

I apologize for not being with you in person for the Tuesday, April 30th hearing on SB557 due to an illness. As a co-sponsor of this legislation, I am in support of the bill as presented to the House. The 340B drug pricing program is an important piece of the healthcare access for citizens across the state, but especially for the Upper Valley as it is home to the state's largest private employer and health system, Dartmouth Health. Therefore, I urge your committee to join the bipartisan group of Senators to approve SB557.

Sincerely,

Rep. Mary A. Hakken-Phillips

Grafton 12 (Hanover/Lyme)

2024 SESSION

24-3094
09/10

SENATE BILL ***557***

AN ACT relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program.

SPONSORS: Sen. Prentiss, Dist 5; Sen. Fenton, Dist 10; Sen. Watters, Dist 4; Sen. Rosenwald, Dist 13; Sen. Perkins Kwoka, Dist 21; Sen. Whitley, Dist 15; Sen. D'Allesandro, Dist 20; Rep. Hakken-Phillips, Graf. 12; Rep. Merchant, Sull. 6; Rep. J. Murphy, Graf. 12

COMMITTEE: Health and Human Services

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ANALYSIS

This bill prohibits a health insurance issuer, pharmacy benefit manager, other third-party payer, or its agent from discriminating against an entity that participates in the federal 340B Drug Pricing Program based on the entity's participation in the program or that the drug is a drug covered by the program.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

**SB 557 - AS INTRODUCED**

24-3094
09/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Four*

AN ACT relative to prohibiting discriminatory actions related to participation in the federal 340B Drug Pricing Program.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 New Section; Accident and Health Insurance; Participation in the Federal 340B Drug Pricing Program. Amend RSA 415 by inserting after section 15 the following new section:

415:15-a Discrimination Based on Participation in the Federal 340B Drug Pricing Program. Within the state of New Hampshire, for the reimbursement to covered entities enrolled in or eligible for the federal 340B Drug Pricing Program for covered drugs, as set forth in 42 U.S.C. section 256b, or such entities' contract pharmacies to the extent such contract pharmacies are dispensing 340B drugs to 340B covered entities' patients, a health insurance issuer, pharmacy benefit manager, other third-party payer, or its agent, shall not impose any terms or conditions, including, but not limited to, restrictions or requirements regarding participation in standard or preferred pharmacy networks or the imposition of a lower reimbursement amount for 340B covered drugs, on a covered entity or its contract pharmacy that differ from such terms or conditions that apply to any other entity on the basis that the entity participates in the federal 340B Drug Pricing Program or that the drug is a 340B covered drug.

2 Effective Date. This act shall take effect 60 days after its passage.