February 21, 2024

Senator Regina Birdsell, Chairwoman
Senate Health and Human Services Committee
Legislative Office Building, Room 101\
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 Chairwoman Birdsell and Members of the Senate Health and Human Services 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 in New Hampshire that provide comprehensive primary care services to over 100,000 patients, including approximately 20,000 children. Approximately 36% of health center patients are commercially insured, 35% are insured by Medicaid, 19% are insured by Medicare, and approximately 10% are uninsured. The health centers provide primary and preventive care, reproductive health care, substance use disorder treatment, oral health services, behavioral health services, and more. New Hampshire's health centers treat all patients regardless of ability to pay or insurance status. Nationally, 90% of health center patients live at or below 200% of the federal poverty level, or $62,400 for a family of four.[1]

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).

[1] National Association of Community Health Centers, Public Policy and Advocacy, "340B Program," (Feb. 2024).

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.

Attached to this testimony are real-life examples of 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,

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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.'"

Please note: 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.