



MAINE ASSOCIATION
OF
HEALTH PLANS

**Testimony of Katherine Pelletreau
to the Joint Standing Committee on Health Coverage, Insurance and Financial
Services**

In Opposition to

**LD 1938 An Act To Prohibit Discriminatory Practices Related to the 340B Drug
Pricing Program**

February 15, 2022

Good morning, Senator Sanborn, Representative Tepler, Members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services:

My name is Katherine Pelletreau, and I am the Executive Director of the Maine Association of Health Plans (MeAHP). MeAHP has six members including Aetna/CVS Health, Anthem Blue Cross and Blue Shield, Cigna, Community Health Options, Harvard Pilgrim Health Care, and UnitedHealth Group. Collectively, MeAHP's members provide or administer health insurance coverage to over 600,000 Maine people. The organization's mission is to improve the health of Maine people by promoting affordable, safe, and coordinated healthcare.

MeAHP is opposed to this bill as drafted. We note that some of the language used is both vague and inflammatory. Words like "coerce" suggest nefariousness where there is none and are not appropriate. Moreover, it is not clear what is meant. The overall drafting of this bill is problematic in other ways as well as it appears to conflate issues of the 340B program with mail order pharmacies. Overall, there are many provisions in the bill that are simply not understandable as written. Since we do not have a full understanding of the intent behind the bill or the problems it attempts to solve, we may offer further comments at a later point.

The issues raised by the bill are contentious and litigious. We understand that an effort in Arkansas resulted in the passage of a somewhat similar law¹ which was subsequently stayed by the Department of Insurance² and then became the subject of litigation when PhRMA sued to have the law struck down.³

¹ <https://www.cv340b.org/arkansas-passes-comprehensive-340b-anti-discriminatory-reimbursement-bill-protects-covered-entities-rights-to-use-contract-pharmacies/>

² <https://rwc340b.org/arkansas-law-suspended-at-phrmas-request/>

³ <https://www.fiercehealthcare.com/hospitals/phrma-sues-ark-over-law-requiring-companies-offer-products-to-340b-contract->

Maine's own Northern Light Health Care is party to a case heard by the United States Supreme Court this past fall.⁴ The case centers on a CMS Rule that permitted Medicare to reimburse 340B hospitals at 22.5% below the average sales price, saving Medicare and its beneficiaries an estimated \$1.6 Billion in 2018.⁵ Northern Light and the hospital community argue that the rate represents an adjustment beyond the scope permitted by the statute. CMS has countered that the lower reimbursement is still substantially more than the 340B discounts and that the reduction additionally and directly benefits beneficiaries who pay 20% co-insurance. It is expected that the Supreme Court will issue a decision on the case as soon as this spring.

We ask the Committee to recognize the problems with this bill, both drafting and otherwise, and vote it ONTP.

Thank you for your consideration of these comments.

[pharmacies#:~:text=In%20the%20340B%20program%2C%20drugmakers,hospitals%20and%20community%20health%20centers](#)

⁴ https://www.supremecourt.gov/DocketPDF/20/20-1114/168634/20210210132919703_No._%20PetitionForAWritOfCertiorari.pdf

⁵ <https://www.commonwealthfund.org/blog/2021/supreme-court-340b-hospitals-discounts-medicare-part-b>