

Dear Governor Scott:

Our organizations write to ask for your support for [H. 353](#), a bill that will implement important patient- and medication-access and safety measures.

H.353 intends to:

- Increase access to needed medications by making prescription drugs more affordable and accessible to by increasing State regulation of pharmacy benefit managers (PBMs)
- Stabilize and safeguard against the loss of more independent and community pharmacies, where pharmacists provide personalized care and help with health care needs, including medication management, adherence, and health screening
- Ensure patients who receive medications intended for infusion are receiving them through timely and reliable means, preventing delays in care or the administration of potentially tainted or spoiled medications

Below are some key examples of why Vermont's health care providers, including pharmacists, physicians and hospitals support H. 353.

- Pharmacists and the Vermont Pharmacist's Association:
  - [Lauren Bode, Interim Executive Director, Vermont Pharmacist's Association](#)  
*... I and my patients spend a lot of time and energy working around the PBMs to get care, a system in which the only way I can get the care my patients need is by partnering with our local community pharmacies. Community pharmacies that are not going to be able to hold on much longer. There has been an independent pharmacy closure every year I have lived in Vermont. None of them in areas that could afford to lose a trusted access point for health care, not before the pandemic and certainly not now.*
  - [Jeffrey Hoberg, President, Vermont Retail Druggists Association](#)  
*The model language [of H. 353] also furthers the quest of increasing Access. Pharmacists have continually been identified as the most accessible healthcare provider in our country. Yet today we see pharmacies across the country shuttering their doors... In the last decade, more than half of Vermont's independent pharmacies have closed and the remaining few are strongly considering it. This is largely due to the questionable practices of the PBMs. The model language does not set out to create winners and losers in the market, but rather to establish criteria that levels the field so that independent pharmacies have a fair chance*
  - [Wes McMillian, Director of Pharmacy, UVM Medical Center](#)  
*[H. 353] will meet the needs of patients served in hospitals, infusion clinics, and rural provider offices and ensure safe, effective, and quality patient care....This bill will allow flexibility for rural providers and patients to choose what is best for them in a shared-decision regarding where their medication originates. The patient can decide whether they would like to use their prescription benefit and have the medication delivered to their provider or use the provider's clinic supply ... This bill will minimize therapy delays and improve patients' access to same day treatment.*

- Hospitals and physicians:
  - Devon Green, Vice President, Vermont Association of Hospitals and Health Systems ([here](#) and [here](#))  
*Requiring third-party pharmacies to deliver complex and sensitive medication to be administered in a health facility can result in misplacement of the medication, improper storage, and improper dosage. This leads to delays in care and increased liability that ultimately drives up costs in the health care system.*
  - [Jessa Barnard, Executive Director, Vermont Medical Society](#)  
*Here are some real-life examples from Vermont providers of how white-bagging has impacted patient care: • A patient with multiple myeloma had infusions of Empliciti delayed twice, resulting in cancer relapse; • Due to insurer’s white-bagging program, a patient with ulcerative colitis experienced increased symptoms and “flare ups.”*

To understand more of the details of H. 353, we provide the following summary. H.353 implements components of the National Association of Insurance Commissioner’s model law regulating PBMs – much of what already existed in Vermont statute. Key additional components of H.353 aiming to increase transparency, accountability and ensure patient and provider choice include:

- Prohibiting PBMs from requiring patients use mail-order pharmacies for medications, increasing access to community-based pharmacies, while preserving patient choice
- Limiting how frequently a PBM can change a drug’s tier
- Limiting how much a patient can be charged for a prescription, including prohibiting a patient from being charged more than if they were to pay cash for the drug, while ensuring the amount paid for prescriptions accrues to health plan deductibles and out of pocket maximums
- Prohibiting a PBM from penalizing a pharmacy or pharmacist for disclosing “the nature of treatment, risks, or alternatives to treatment; the availability of alternate therapies, consultations, or tests; the decision of utilization reviewers or similar persons to authorize or deny services; the process that is used to authorize or deny health care services; or information on financial incentives and structures used by the health insurer.”
- Prohibiting PBM discrimination in relation to prescriptions for 340B-eligible patients
- Providing parameters governing reasonable data demands by PBMs of pharmacies when conducting an audit
- Prohibiting insurers or PBMs from requiring, through policy, procedure or contract, a pharmacy designated by the insurer or PBM to dispense medication directly to a facility or to a patient for medications intended for administration in a health care facility (*notes: see more on “white bagging” and “brown bagging” below; the practices of white and brown bagging are still permissible under this language, but patients and their providers would have choice in whether to follow the practice*)
- Directing DFR to engage in a study with interested stakeholders, examining many additional potential policy directions the State can take to further regulate PBMs and their practices.

Finally, H.353 directs the Department of Financial Regulation to monitor any “cost impacts on Vermont consumers of pharmacy benefit manager regulation pursuant to this section,[...] and shall recommend appropriate modifications to the laws as needed to promote health care affordability in this State.” In other words, should PBM regulation impact health care costs in Vermont, our expert regulator is charged with making recommendations to course correct.

Thank you for considering your support of this important legislation. You can reach us at [devon@vahhs.org](mailto:devon@vahhs.org) or [jbarnard@vtmd.org](mailto:jbarnard@vtmd.org).