



April 28, 2025

Colorado State Legislature
House Health and Human Services Committee
200 E Colfax Avenue
Denver, CO 80203

Mailing Address:

Attn: Jen Laws
PO Box 3009
Slidell, LA 70459

Chief Executive Officer:

Jen Laws
Phone: (313) 333-8534
Fax: (646) 786-3825
Email: jen@tiicann.org

Board of Directors:

Darnell Lewis, Chair
Riley Johnson, Secretary
Dusty Garner, Treasurer

Michelle Anderson
Hon. Donna Christensen, MD
Kathie Hiers
Kim Molnar
Judith Montenegro
Amanda Pratter
Trelvis D. Randolph, Esq
Cindy Snyder

Director Emeritus:

William E. Arnold (*in Memoriam*)
Jeff Coudriet (*in Memoriam*)
Hon. Maurice Hinchey, MC (*in Memoriam*)
Gary R. Rose, JD (*in Memoriam*)

National Programs:

340B Action Center
PDAB Action Center
Transgender Leadership in HIV Advocacy
HIV/HCV Co-Infection Watch

National Groups:

Hepatitis Education, Advocacy & Leadership
(HEAL) Group
Industry Advisory Group (IAG)
National ADAP Working Group (NAWG)

Via electronic mail

RE: SB 71 - OPPOSE

Dear Honorable Chairman Brown, Vice Chair Lieder, Members of the Colorado House Health and Human Services Committee, and your respected staff,

The Community Access National Network (CANN) writes in **OPPOSITION** to **SB 71**, which would expand the federal 340B Drug Pricing Program in Colorado without sufficient oversight to ensure the program appropriately serves patients, particularly those living with HIV and other chronic health conditions.

The Community Access National Network (CANN) is a 501(c)(3) national nonprofit organization focusing on public policy issues relating to HIV/AIDS and viral hepatitis. CANN's mission is to define, promote, and improve access to healthcare services and support for people living with HIV/AIDS and/or viral hepatitis through advocacy, education, and networking.

While CANN is primarily focused on policy matters affecting access to care for people living with and affected by HIV, we stand in firm support of all people living with chronic and rare diseases and recognize the very reality of those living with multiple health conditions and the necessity of timely, personalized care for every one of those health conditions. The 340B Drug Pricing Program is of profound importance to our community.

SB 71 undermines the well-recognized need for reform to align 340B with its original intent because the bill seeks an avenue to [expand 340B contract pharmacy arrangements without limitation](#) – particularly, limitations necessary to ensure proper transparency and accountability.

Abuse is rampant in the 340B Drug Pricing Program, as has been outlined in a [recent report from Chairman Bill Cassidy of the Senate Health, Education, Labor and Pensions Committee](#) (HELP) which requested a comprehensive understanding of where the dollars generated by this program flow and how such revenue benefits patients. The information gathering included letters requesting

RE: SB 71

April 28, 2025

Page Two

information and data from hospital covered entities, Health Centers, Large for-profit chain pharmacies, and pharmaceutical manufacturers.

IRA and 340B Discount Duplication Concerns - Unclear Definition of “Restriction”

Of the issues outlined within the report is the failure for provider specific de-duplication of discounts between 340B and the Inflation reduction Act’s drug price negotiation program (MFP). The Centers for Medicare and Medicaid has absolved itself of any responsibility of oversight and prevention of prohibited duplicate discounts. The report rightly highlights CMS’ failure by quoting the agency directly: “[CMS]...expects providers to submit accurate claims and *utilize correct modifiers*.” [emphasis added]. The language of SB 71 does not appropriately define “restriction” and the Committee has an obligation to ensure this definition is sufficiently enforceable. Is a claims modifier a “restriction”, given many CE’s objections to utilizing the same?

Indeed, the plain language of the bill, at 6-29-105.(1)(b) states plainly, “A manufacturer shall not directly or indirectly require...claims or utilization data...”. Federal law does not “require” such claims modifiers as related to IRA rebates but merely suggests this action should *already* be going on. The Colorado legislature should clarify its intent and the language of the bill to expressly *allow* such claims data collection in order to prevent and detect duplicate discounts.

“Revenue is revenue.” Or How Entities Can and *Do* Avoid Responsibility to Use 340B Revenue to Serve Patients

In Bon Secours Mercy Health (BSMH) response to Senator Bill Cassidy’s request for information when asked how 340B revenues were used (ie. exec compensation v patient benefit and charity care), their response was "we don't segregate revenue. revenue is revenue."

Based on written responses and the accompanying documents produced pursuant to Chairman Cassidy’s investigation, BSMH and Cleveland Clinic each generated hundreds of millions of dollars in 340B savings and revenue from the 340B Program between 2018 and 2023. In responses to Chairman Cassidy’s letter, both BSMH and Cleveland Clinic explained that it “does not directly pass on all savings generated from the 340B Program to patients in the form of savings on health care expenses.”

One common claim made to legislators is that providers, pharmacists, and/or payors are unaware of the value of a 340B discount, preventing them from applying these savings to patients’ out-of-pocket costs. However, this claim is false. Many 340B entities employ “third-party-administrators” (TPAs). These TPAs are often vertically integrated with pharmacy benefit managers (PBMs) and contract pharmacies. TPAs provide electronic medical record systems integrations, allowing providers to know the approximate or exact value of 340B revenue a specific medication will generate while seeing a patient—before the patient even reaches a pharmacy counter. In CVS’s response to Senator Cassidy they raked in more than 350 million in TPA fees, highlighting the need for accountability and transparency.

RE: SB 71
April 28, 2025
Page Three

Overall, the agreements between the contract pharmacies, TPAs, and covered entities reflect a proliferation of fees across various services and settings. With multiple for-profit entities receiving substantial financial benefits, the incentives are aligned to exert more payment pressure on covered entities, thereby diverting resources from the 340B Program's intended purpose of allowing covered entities to stretch scarce federal resources as far as possible.

There is ever growing evidence that manufacturer mandates add unnecessary burden to already strained state budgets as outlined by the [North Carolina treasurer's report](#), and in the case of Tennessee, adding \$7,452,700 to state expenditures as outlined by the fiscal note on the state's manufacturer mandate bills [HB 1242 & SB 1414](#), while Texas's fiscal note estimates that unlimited contract pharmacy agreements will [make the state's HIV program insolvent by 2027](#).

Chairman Cassidy's investigation underscores that there are transparency and oversight concerns that prevent 340B discounts from translating to better access or lower costs for patients. Congress needs to act to bring much-needed reform to the 340B Program, **SB 71** as written, stands in opposition to ensuring patients benefit from this federal program that intended to reach more patients, and provide more comprehensive services.

To be clear, CANN supports a strong 340B program. When 340B operates the way it is intended, safety-net providers thrive and vulnerable communities, families, and individuals gain access to healthcare they might otherwise not have. CANN welcomes discussion on instituting appropriate guardrails into legislation within the appropriate limitations of state powers associated with this federal program.

We would be happy to discuss this legislation or any other matters of public health, please feel free to reach out by email or phone at kalvin@tiican.org, 913-954-8816, or jen@tiicann.org, 313-333-8534.

Respectfully submitted,



Sincerely,
Kalvin Pugh
Director of State Policy, 340B
Community Access National Network (CANN)

On behalf of
Jen Laws
President & CEO
Community Access National Network

