



MEMORANDUM OF SUPPORT

S1913(Rivera) / A6222 (Paulin): 340B Prescription Drug Anti-Discrimination Act

Founded in 1982 as Gay Men's Health Crisis, the world's first HIV and AIDS services organization, GMHC's mission is to end the AIDS epidemic and uplift the lives of all affected. GMHC provides comprehensive psychosocial services to over 5,500 New York City residents every year. In 2023, more than 78% of our new clients lived under the Federal Poverty Level. GMHC is part of the healthcare safety-net in New York, providing care to communities with long histories of health disparities, regardless of an individual's ability to pay. These communities include people of color and LGBTQ+ communities.

As a safety net provider, GMHC accesses pharmaceutical products through the Federal Public Health Service Act 340B drug discount program. For more than 30 years, the 340B program has allowed safety net providers like us, known as "covered entities," to purchase pharmaceutical drugs at discounts. In turn, covered entities reinvest the savings from those discounts to expand access to care, as required by the Federal Health Resources and Services Administration (HRSA). Although New York State has carved the Medicaid pharmacy benefit out of Medicaid Managed Care, there are still opportunities for covered entities to avail themselves of the 340B program through Medicare and commercial insurance. To protect those opportunities, our organization supports **S1913 (Rivera) / A6222 (Paulin)**, which would prohibit pharmaceutical manufacturers and pharmacy benefit managers (PBMs) from discriminating against covered entities and their New York pharmacies based on 340B participation.

In recent years, pharmaceutical manufacturers, PBMs, and other related entities have taken steps to diminish safety net providers' 340B savings. For example, PBMs often impose restrictive contracting terms and employ unique audit techniques exclusively towards 340B covered entities. This places an additional administrative burden on 340B covered entities, while PBMs divert 340B savings from covered entities to themselves. Additionally, some pharmaceutical manufacturers have instituted new policies prohibiting covered entities like us from receiving 340B-discounted drugs at multiple contract pharmacies. Many covered entities, such as Ryan White Providers like GMHC, have vast service areas, and patients travel great distances to receive our care. Contract pharmacies ensure patients can receive their medications from a pharmacy closer to home. The pharmaceutical manufacturer, PBM, and other entities' discriminatory actions reduce 340B savings, hurting a covered entity's ability to expand care in their communities (e.g. through providing discounted drugs to the uninsured and underinsured and establishing school-based health centers).

S1913 (Rivera) / A6222 (Paulin) would prohibit manufacturers, PBMs, and other related entities from engaging in discriminatory business practices. These actions reduce our 340B savings while lining the pockets of for-profit entities. GMHC urges the Legislature to pass and the Governor to sign **S1913(Rivera) / A6222 (Paulin)** to safeguard the integrity of the 340B program and ensure covered entities continue to have access to 340B benefits in Medicare and commercial insurance. This legislation will protect the resources GMHC needs to provide and expand care and support services that meet the needs of the vulnerable communities we serve at no additional cost to the State.