PSSNY

Pharmacists Society of the State of New York, Inc.

Testimony

The New York Health Act

Joint Senate and Assembly Public Hearing

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Honorable Senator Rivera, Honorable Assembly Member Gottfried, and Members of the Senate and Assembly.

My name is Steve Moore and I am here today on behalf of The Pharmacists Society of the State of New York (PSSNY) where I serve on the Board of Directors as its President-Elect. Thank you for affording PSSNY the opportunity to comment on the New York Health Act, we are happy to be a part of this important discussion on the future of healthcare in our state.

PSSNY was established in 1879, and for 140 years has represented pharmacists in New York and is currently the largest pharmacy association in the state. PSSNY represents the interests of pharmacists in all practice settings, and more than 350 million times a year, patients access a New York State pharmacy making our members the most accessible health care providers in your communities.

Our testimony begins with the belief that every New Yorker deserves access to quality and affordable health care. It does not matter your socioeconomic status, race, creed, ethnicity, gender identity, or country of origin. If you live in New York you deserve healthcare when you are sick, and preventative care when you are not.

The New York Health Act is ambitious legislation that would eliminate the current public and private health insurance landscape, and transform it into a state-sponsored single-payer health program. The Act would provide comprehensive health insurance coverage to every resident of the State and includes key features such as $0 deductibles and $0 copayments. At this time,

PSSNY offers no comment on the Act's proposed tax structure changes, federal waivers, or other policy implications. Rather, PSSNY would like to focus on the prescription drug benefit changes proposed in the New York Health Act.

New York's current Prescription Drug Distribution System is Broken.

New York's prescription drug distribution system is broken. In particular, the practices of the Pharmacy Benefit Manger (PBM) industry are directly related to increased health care costs and decreased patient access. Three large PBMs dominate the market, and CVS Health, Express Scripts and Optum collectively control more than 75% of the prescriptions dispensed in the United States. This includes prescriptions covered by New York's Empire Plan, other commercial plans, workers compensation plans, Medicare Part D Plans, and Medicaid managed care plans. PBM's year-over-year profitability parallels increased drug and health care costs and they collectively generated profits of more than $12 billion dollars in 2017 alone.

According to a February report from The West Virginia Bureau for Medicaid Services, by eliminating PBMs from its Medicaid program in 2017, the state of West Virginia was able to save $54 million dollars in the first year, while at the same time returning $122 million dollars to its local economy.[1] Here in New York, a January 2019, whitepaper commissioned by PSSNY indicates that, over a 12-month period, more than $300 million dollars were stolen from providers and taxpayers by PBMs. How did they do it? PBMs represented and reported that $300M dollars as healthcare spend, when in fact, the money was pocketed by the middlemen through a practice

[1] See Pharmacist Savings Report, West Virginia Medicaid, Actuarial Assessment of the SFY18 Impact of Carving out Prescription Drugs, Original February 25, 2019, Amended April 2, 2019. https://dhhr.wv.gov/bms/News/Documents/WV%20BMS%20Rx%20Savings%20Report%202019-04-02%20-%20FINAL.pdf

called spread pricing.[2] PSSNY echoes the conclusion of the whitepaper, and calls on the State of New York to perform a full audit of PBM practices in New York sponsored prescription drug plans using the full dataset available only to the state.

In addition to spread pricing, PBMs have unfettered control over how much they pay contracted network pharmacies who also happen to be their direct competitors in the pharmacy marketplace. Community pharmacies of all sizes, from the single store independent to chains as large as Walmart and Walgreens, are victims of this broken market, and receive a reimbursement rate decided solely by the PBM.[3] PSSNY believes that PBMs should be licensed, regulated, and held to the same standards of excellence and accountability as other stakeholders and participants in the delivery of healthcare to patients throughout the State.

In short, if the New York Health Act is implemented, the issues described above must be addressed and the influence of the PBM industry must be curtailed if not outright eliminated.

Turning now to the New York Health Act, we would like to explore the concept of the Board of Trustees created by The Act to submit recommendations, establish, and amend regulations to effectuate the provisions and purposes of the Act. The board is composed of the commissioner of health, the superintendent of the department of financial services, and, among others, two representatives of professional organizations representing physicians and two representatives of professional organizations representing licensed or registered health care professionals other than

[2] See "Analysis of PBM Spread Pricing in New York Medicaid Managed Care," by 3Axis Advisors, January 19, 2019. https://cdn.ymaws.com/pssny.site-ym.com/resource/resmgr/press/3Axis_NY_Medicaid_Managed_Ca.pdf
[3] Schladen, M. and Candisky, C. "Report: CVS Shorted Some Rivals: Undercutting the Competition." The Columbus Dispatch January 20, 2019

physicians. **PSSNY's position is that there should be a least one board position dedicated to a New York State licensed pharmacist. Pharmacists are an essential component of the healthcare delivery system, uniquely positioned as the most accessible healthcare providers, and should have a permanent seat on the Board to provide input on rules and regulations governing the healthcare system.**

Under the New York Health Act, the prescription drug benefit would be processed through the State's Preferred Drug program (Section 5105(4)(c)), until such time as the Board develops a universal healthcare reimbursement methodology. The Preferred Drug Program and Clinical Drug Review Program develop a list of drugs which in effect creates a universal and consistent formulary throughout the State. If a provider wishes to prescribe a drug outside of this list, prior authorization is required. Today, New York pharmacies are still reimbursed by the Department of Health on a fee-for-service basis for a subset of New York's Medicaid population and the preferred drug program works well in this limited application. Expanding the preferred drug list assures that every person has the same access to the most economical and effective therapies and will result in program and taxpayer savings. Expansion of the preferred drug program would also leverage more of New York's significant negotiating power and give the State access to the full spectrum of rebate dollars.

PSSNY strongly supports **A2795 (Gottfried) / S5923 (Rivera)**, which places the entire Medicaid prescription drug benefit into the Preferred Drug program. PSSNY strongly believes that this bill should be passed by the Legislature immediately and signed by the Governor. The bill is the

logical bridge from the current system to the one where we meet the goals of the New York Health Act.

Data presented in the 2018 RAND Corp.'s study on the New York Health Act entitled "An Assessment of the New York Health Act: A Single-Payer Option for New York State," shows that pharmacies are paid significantly less for prescriptions dispensed under Medicaid plans than paid under commercial or Medicare Part D plans.[4] The difference in reimbursement rates is striking, and pharmacies would be unable to survive if forced to accept the current Medicaid rate exclusively. Therefore, in order for pharmacies to remain viable under the New York Health Act, thought must be given to both an appropriate reimbursement rate and a professional dispensing fee that covers the cost of providing care and doing business here in New York. The reimbursement model should also be robust and flexible enough to also allow for a billing mechanism for pharmacist care and/or pharmacist as provider services necessitated by scope of practice expansion initiatives such as CLIA-Waived testing, Comprehensive Medication Management, and broad-based immunization authority.

New York's pharmacists are highly trained and skilled providers that are readily accessible to patients in every part of the state. Pharmacists work on a daily basis to improve the quality of care and patient outcomes related to medication use, enhance our patients' overall health trajectory, and reduce the total cost of care. As demonstrated under New York's DSRIP program, pharmacists are able to integrate and collaborate with other stakeholders to deliver, high quality, patient-centered care above and beyond traditional pharmacy dispensing services. Care models may

[4] Jodi L. Liu, Chapin White, Sarah A. Nowak, et. Al, "An Assessment of the New York Health Act: A Single-Payer Option for New York State." The RAND Corporation, 2018.

include patient counselling on both prescription and non-prescription items, medication therapy management, medication reconciliation, transitions of care programs, compliance packaging, adherence programs, delivery, prescription compounding, drug disposal, naloxone training, immunizations, care management protocols, and anything else necessary to get the right medicine, to the right patient, at the right time.

Thank you again for allowing PSSNY to testify today, pharmacists share your commitment to affordable and accessible health care for each and New Yorker, and we strongly believe that pharmacists are uniquely positioned to help meet the goals of the New York Health Act. We commend the work that you have done to this point, and are happy to be a partner with you to develop and plan for the future of New York's healthcare.