Testimony to the Joint Senate and Assembly Public Hearing, Kingston ,NY Dr William Barrick MD 11/25/19

Good afternoon, Members of Joint Senate and Assembly and Citizens of New York. I am Dr William Barrick, I have been asked to testify on behalf of my physician colleagues who are members of the Medical Society of the State of New York regarding the proposed NY Health Act S3577. (NYHA) However, I make the disclaimer that this speech and the opinions expressed within are solely my own .

I am also testifying as a NY citizen, a voter, a patient who has endured multiple Orthopedic Surgeries, a business owner who provides health care benefit payments as part of an Orthopedic group practice for over 200 workers. I hope to share with you the somewhat unique perspective of walking in the shoes of most of the stakeholders interested in our common goal of providing high quality, affordable health coverage to the people of New York

I , too , share the extreme frustration of many of us here today in the increasing loss of control of accessing the health care system, due to loss of a balance of power between those who are consumers of health care and those who pay, facilitate and provide for that care . In my daily practice , I see, less and less access and affordability due to unchecked hurdles such as burdensome prior authorization requirements , peer review calls , increasing copays, deductibles and other cost limiting measures which are imposed not for the stated purpose of improving quality but rather for improving the bottom line of commercial Health insurers .
We have accessible, but not affordable coverage today

I believe it is out of this frustration that we all share, that the NY Health Act was born. In preparing for my testimony today, I educated myself by reading all 25 pages of the act. I also studied some history of attempts to provide single payer coverage such as Vermont.

After reviewing the Proposed Act, on the surface it seems like a good idea, instead of employers paying premiums to for profit insurers who delay and deny coverage to make bigger profits, a payroll and non payroll tax is paid. A progressive graduated tax based on income will be used to determine each individuals contribution . NY state then seeks a federal waiver to use dollars earmarked for Medicare and Medicaid to be paid with the new taxes into a "NY Health trust fund" with then covers all costs of care. Medicare guidelines are used to reduce preauthorization hassles for patients and physicians. Cost sharing such as premiums, copay , deductibles are eliminated and everyone in the state (regardless of immigration status is covered) . Sounds great, right?

The biggest concern I have after reading this proposal is that there are no real time numbers to tell us what the primary and secondary costs of this program will be. Quoting the famous words of Clara Peller, the no nonsense senior citizen in the Wendy' s commercials of my youth, "Where's the Beef? " In Vermont , a much smaller state with many less undocumented immigrants and less poor people, once the taxes on small businesses were calculated , they realized that the plan would destroy the economy. 8 years later, the law has never been implemented.

According to the RAND corporation ,An Assessment of the New York Health Act " (Liu,JL , White, Chapin, et al) was commissioned by NYS Health in 2018 that "new state tax collections would need to be 139.1 billion in 2022, and 210.1 billion in 2031 to fully finance NYH . This additional revenue represents a

156% increase over the projected 89.3 billion in total state tax revenue under the status quo in 2022". Think about that for a second. Can New Yorkers really afford a 156% tax increase?

The authors go on to say that their projections rely on several assumptions which may or may not come to pass such as in/out migration, high income residents or businesses changing investments or moving out of state to reduce tax burden. obtaining the necessary federal waivers, assumptions about provider payor rates , administrative costs , drug prices . The plan assumes that the state will negotiate modest reductions in growth of provider payment and trim administrative expenses.

To understand what this analysis means, I encourage all of you here today to read Sally Pipes' article regarding the NY Health Act, from the perspective of someone who grew up in the Canadian Single Payor system ("The New York Health Act Just Became Even More Expensive " Forbes 3/4/19)

Speaking for myself and many of my colleagues, we have serious concerns with a single entity, the State of New York in administrating such a complex vast business such as health care. Just try to stand in line at the DMV to get a new car title as proof of this point. I apologize, but New York State government is not legendary for its efficiency. I am also quite fearful of secondary effects on our economy, especially the health care sector. According to the report of Thomas DiNapoli, NYS controller from 2018. there are 1.2 million healthcare workers and 71 billion $ in wages paid per year (www.osc.state.ny.us/reports/economic/health-care-employment -2018.pdf)There will be many displaced workers from physician offices, hospitals and insurance companies with loss of the very payroll and taxes needed to fund the NY Health trust fund .

Speaking now as a physician, I am in favor of the NYHA utilizing nonbiased well studied guidelines such as Medicare , which has essentially little or no preauthorization requirements however we would like more clarification in the language of the act that this specifies fee for service and not managed care Medicare guidelines . We also like the elimination of cost shifting back to patients, which also allows more timely access to needed care. We do have concerns however with the appeals process for denied care by the State under the NYHA

We do have concerns that as costs exceed predictions, NYS health may resort to the same cost cutting measures that plague us now -such as narrowing physicians network or significantly cutting physician payments, which we can not tolerate as a profession

We have concerns about receiving fair payment for our services and for the lack of meaningful Medical Malpractice tort reform as part of the NYHA. Without reasonable limitations and fairness to physicians involved in the process of malpractice litigation, the continued use of defensive medicine practices such as ordering tests with low diagnostic yield will continue to make NY state the worst, most expensive state to practice medicine in the US, limiting our ability to lower our payment rates as suggested by the RAND study authors as necessary for the NYHA to work

While we applaud the authors of the NY Health Act, Assemblymen Gottfried and Senator Rivera for their noble intentions , I implore our esteemed members of our State Legislature and Governor Cuomo to appoint a task force to further study the numbers, specific tax rates needed and secondary impacts on our economy further before passing this Act, rather than relying on a single analysis

Until further detailed financial modeling and better predictions of the cost of NYHA can be completed, We recommend passing proposed legislation already in Albany that will restore the balance of power and improve affordable access to care .

- A. 2393/S.3462, to permit physician collective negotiation
- A.3038/S.2847, to reduce burdensome prior authorization requirements
- A.2969/ S.2849, to limit mid-year formulary changes
- A.2835/S.3463, to assure physicians have necessary due process when a health insurer refuses to permit a physician to continue to participate
- A.5140/S.5280, to prohibit a health insurer from requiring a physician to continue to endure burdensome MOC as a condition of continuing network participation

Another approach, which is my personal preference, would be to keep the existing system which under the ACA has established the NY Health Exchange , but establish a **single set of Payer guidelines** similar to the NY Workmen's Compensation Medical treatment guidelines established in 2013

The NY State Health guidelines would be developed by a panel with **equal** representation of all the stakeholders including patients and advocacy groups, physicians and other health care provider groups, health insurer representatives, labor groups, employer /business groups, Commissioner of health, Legislators. This is similar to the National Health Service (NHS) guidelines established by the UK government for example

Once approved by the State legislator and Governor, the private commercial insurers would be forced to follow these guidelines which would also strictly limit or eliminate cost sharing and preauthorization hassles, exactly the same way the Managed Medicare products these health insurers also offer are limited by the federal government.

At this time on behalf of Myself, My colleagues and the Medical Society of the State of New York , I wish to thank all of you here today ,for your time and attention to this vital issue

William Barrick MD

wtbspinedoc@aol.com