TESTIMONY OF JENNIFER HAWKS BLAND, CEO OF NEWYORKBIO
JOINT ASSEMBLY AND SENATE HEALTH BUDGET HEARING

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Assembly Ways & Means Chair Weinstein, Senate Finance Chair Krueger, and members of the Joint Health Budget Committee, thank you for this opportunity to submit testimony for your consideration as you review proposals in the Governor's proposed 2024 – 2025 New York State Budget. I would like to express our concerns regarding provisions within Part I of the Health and Mental Hygiene proposed executive budget (S.8307/A.8807).

I submit this testimony on behalf of NewYorkBIO, the state's leading life sciences trade organization. NewYorkBIO represents over 250 of New York's bioscience companies, universities, research institutions, patient-focused organizations and others dedicated to advancing life science research and commercialization. The state of New York and the New York City metropolitan region is home to the largest and richest bioscience community in the world: among other assets, the region boasts over 60% of large pharmaceutical national or global headquarters; supports more than 75,000 direct biotechnology jobs; graduates more life science PhDs than any other region in the US; is home to over 25% of the cancer clinical trials in the US; and lays claim to the world's largest concentration of academic medical centers.

NewYorkBIO Opposes the Repeal of "Prescriber Prevails" Patient Protections in Medicaid

A section of the proposed executive budget (Part I, sections 3-4*)* would prevent a prescriber from invoking "Dispense as Written", or prescriber prevails, for prescription medicines in Medicaid fee for service and in seven classes of drugs in managed care. Current law protects patients by allowing a prescriber to seek exceptions to provide a specific brand medicine if that is the best choice to treat a patient's condition. For example, a patient may have an allergy to an inactive, generic ingredient or a specific-medical need (e.g., epilepsy) where a brand medicine must be used instead of the equivalent generic.

These cases are relatively rare, and the existing process requires significant effort by the medical professional to navigate through the prior authorization process. However, it is a critical protection for patients that is built into the system, and so we oppose the budget proposal that would repeal it. Moreover, it is important that New York reflect its commitment to innovation by ensuring that State programs and policies do not unduly limit a patient's ability to receive, in consultation with their doctors, the best therapies and devices for that specific patient.

NewYorkBIO Opposes Making the Drug Cap Supplemental Rebate Process Further Opaque and Punitive

The Medicaid Drug Cap process that New York created several years ago provides an administrative structure for manufacturers of medicines to negotiate voluntary supplemental rebate agreements with the Department of Health. However, the legislature did not intend for this process to act as a price setting mechanism. When price controls are introduced, fewer therapies are available to patients. Predictably, therapies for rare diseases with smaller patient groups face the greatest obstacles. The National Bureau of Economic Research estimated that cutting prescription drug prices in the United States would lead to between 30-60% fewer early-stage research and development projects being undertaken. In the near term, these types of price controls could affect New Yorkers' access to therapies and could create market disruption.

Studies show patients are negatively impacted in countries that have government run healthcare systems with pharmaceutical price-controls. For example, one study showed that between 2002-2014, 40% of medicines that treat rare diseases were rejected for coverage in the United Kingdom. Another study demonstrates that only 55% of new drugs approved globally for respiratory illnesses between 2011-2017 were available in Canada verses 100% in the United States.

Providing the Department with unfettered discretion through this process could negatively impact patient access. Existing law creates a structure with several steps before the Department can impose punitive measures against manufacturers that could affect access and gives the legislature tools to provide oversight of the Department, including reporting and other accountability measures. These existing patient safeguards should be combined with additional transparency measures for patient protections, for example, increasing the role of patient advocates. The budget proposal takes the opposite approach. It eliminates many of the Department's reporting requirements and otherwise undermines the accountability built into existing law. It also collapses the steps within the Drug Cap negotiation process by providing the Department with almost unfettered discretion to demand sensitive proprietary information from manufacturers and to impose patient access restrictions.

Medicaid only spends approximately 4.8% of its total budget on retail brand and generic prescription drugs. Moreover, under the existing system, manufacturers rebate back $3.6 billion to the state and federal government. We see no justification for such draconian changes to the existing process.

Conclusion

The State of New York has traditionally prioritized patients and their access to cutting edge therapies. Proposals such as these undermine both patient protections and patient access. It is for these reasons that NewYorkBIO strongly opposes this proposed budget provision. If you have further questions regarding this issue, please contact me at Jennifer.Bland@newyorkbio.org.