



**PHARMACISTS SOCIETY OF THE STATE OF NEW YORK**

**TESTIMONY**

**JOINT LEGISLATIVE BUDGET HEARING  
HEALTH AND MEDICAID**

**February 28, 2023**

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Honorable Finance Chair Senator Krueger, Honorable Ways & Means Chair Assembly Member Weinstein, Senator Rivera, Assemblywoman Paulin, and distinguished members,

PSSNY is a 144 year-old statewide organization with regional affiliates that represents the interests of more than 25,000 pharmacists who practice in a variety of settings. Most members practice in community pharmacies. Many, like myself, are independent pharmacy owners. The Pharmacists Society's members are united in support for the Executive Budget Proposal's Pharmacy-related Provisions.

First, and perhaps most important to the thousands of pharmacists across the State of New York, is the implementation of **Medicaid Pharmacy Carve Out**. **Independent pharmacy needs carve out in order to remain viable.** Governor Hochul estimates that the removal of the Medicaid pharmacy benefit from Managed Care will save the State approximately \$410 million dollars per year. These savings come from the State being able to implement a single formulary and negotiate both prices and rebates from the drug manufacturers. None of that money will be passed through to pharmacy. Rather, Governor Hochul is proposing to take the bulk of those savings, and reinvest it into New York's not for profit providers: *\$212 million dollars dedicated to Hospitals; \$125 million dollars for Federally Qualified Health Centers; and \$30 million dollars for Ryan White Clinics.*

Why does pharmacy need this to happen? Since former Governor Cuomo instituted managed Care ten years ago, pharmacy has been squeezed by middlemen who call themselves pharmacy benefit managers. These PBMs siphon money from the Medicaid system at the expense of pharmacy. On average, a pharmacy receives only *fifty cents (\$0.50)* per Medicaid prescription. This is a far cry from the rate of \$10.18 set in statute. As such, pharmacies lose money on nearly every prescription filled by a Medicaid patient, because the PBMs keep the majority of the money for themselves. By removing the Medicaid pharmacy benefit from Managed care, and returning it to the fee for service model, the State will ensure that independent pharmacy receives fair reimbursement for the medication provided.

We understand that there is fear by entities who receive funding through the federal 340b program. And we have seen their multi-year campaign to stop the return to fee for service. We ask the Legislature to look to California, which implemented Medicaid pharmacy benefit carve out. Not for profit healthcare providers have not gone out of business in that State. Rather, they have been able to draw down on a fund specifically set aside for not for profit clinics. In other words, the world did not end.

### **Other Pharmacy Provisions:**

**PSSNY opposes the proposed elimination of prescriber prevails.** The Executive proposes to eliminate prescriber prevails, which is a feature of New York's Medicaid program that gives doctors the final say over which medications are dispensed to patients under the Managed Care Preferred Drug Program. Prescribers are well aware of the efficacy and availability of generic equivalent medications. However, in some cases, the prescriber may specify a name-brand medication for the treatment of a specific patient or condition. The State should not step in and interrupt that prescriber/patient relationship by overruling the prescriber. Therefore, we ask the Legislature to reject the Governor's proposal.

**PSSNY supports the scope of practice expansions proposed by Governor Hochul.** We believe that these are necessary measures to ensure that New Yorkers have access to the healthcare they deserve. Specifically, PSSNY supports:

- The Proposal to authorize pharmacists to prescribe and order self-administered hormonal contraceptives and emergency contraceptive drug therapy pursuant to a standardized procedure or protocol developed and approved by the Board of Pharmacy, in consultation with the DOH;
- The Proposal to authorize pharmacists to dispense HIV pre-exposure prophylaxis pursuant to a non-patient specific order from a physician or nurse practitioner;

- The Proposal to expand the tests that pharmacists are authorized to order and administer to include all tests waived under the federal Clinical Laboratory Improvement Amendments (CLIA), and make such authorization permanent;
- The Proposal to authorize pharmacists to prescribe and order opioid antagonists and medications to treat nicotine dependence;
- The Proposal to expand the Collaborative Drug Therapy Management Demonstration Program, by authorizing pharmacists to prescribe, allowing pharmacists to enter into collaborative agreements with nurse practitioners and facilities, expanding eligible facilities, removing patient consent requirements, and creating new eligibility requirements for pharmacists;
- The Proposal to authorize pharmacists to order diabetes self-management education and support, asthma self-management education and home-based asthma services, and any other services authorized by the Commissioner of Education;
- The Proposal to authorize physician assistants to prescribe and order non-patient specific regimens to pharmacists and registered professional nurses for administering immunizations;
- The Proposal to transfer oversight of certain licensed health care professions and entities including the Board of Pharmacy from SED to DOH;

The Proposal to Update Schedule I Drugs as outlined in Part BB in Public Health Law:

PSSNY also understands the Governor's desire to enact the "Prescription Drug Price and Supply Chain Transparency Act of 2023." This would call for the Department of Financial Services to register PSAOs, pharmacy switch companies, and rebate aggregators. Manufacturers and wholesalers will also be required to report their prices to DFS prior to offering drugs for sale in

NY. We would like the Legislature to remove this proposal from the budget, and allow the language to develop through the non-budget Legislative Process.

\*The Pharmacists Society looks to Social Services law for fair and appropriate compensation for above services

In the Governor's budget proposal, there are enough dollars earmarked for 340b programs and hospitals. In fact, my pharmacy will not receive anything directly from the transition to fee for service. We will only receive the amount of money for our service that we are supposed to receive under current law. *However, the Governor has proposed creating a special pot of money for hospitals (\$212 million dollars), a special pot for FQHCs (\$125 million dollars), and a third pot for Ryan White clinics (\$30 million dollars).*

The Pharmacists Society encourages the legislature to work with other stakeholders to make them whole and offer the provisions outlined in the Governor's Budget Proposal.

Conclusion:

Community pharmacists have been on the front lines of providing a range of health care services since January 2020. Patient access to pharmacies and the Governor's health provisions supported by PSSNY will ensure sustainability and viability of pharmacies for all New Yorkers. The Pharmacists Society looks forward to remaining a valued stakeholder to the state and its legislature.