

MEMO IN OPPOSITION

FOR IMMEDIATE RELEASE: JANUARY 17, 2006

Re: A.6458 (Canestrari)

An act to amend the Public Health Law, in relation to requirements for collective negotiations by health care providers with certain health benefit plans.

The New York Health Plan Association (HPA) opposes **A.6458**, legislation that authorizes collective negotiations for certain health care providers. This legislation will raise the cost of health care for consumers in New York.

Historically, antitrust laws have protected consumers from predatory price-fixing in a variety of industries including health care. Currently, these laws prohibit independent physicians from engaging in collective efforts to set the price for medical services. This has benefited patients by encouraging greater choice, higher quality products and services, and innovative approaches to health care delivery. Enforcement of current antitrust laws has been crucial to promoting competition and preventing local provider monopolies that would allow physicians to set unfair prices.

Opposition to this legislation goes beyond health plans:

- ◆ **Attorney General Spitzer** has expressed antitrust concerns with this proposal, noting the legislation lacked the “regulatory scheme” necessary to facilitate collective negotiation with prescribed bargaining limitations. The Attorney General also questioned the motivation of the legislation, stating that the proposal serves “mainly private interests rather than the interest of the government.”
- ◆ In July 2004, the **United States Department of Justice** in conjunction with the **Federal Trade Commission** issued a report (*Improving Health Care: A Dose of Competition*) that condemned efforts by physicians to collectively bargain stating that such a measure would “likely harm consumers by increasing costs without improving quality of care.”
- ◆ Consumer organizations such as the **Center for Medical Consumers** oppose this measure, because it raises concerns about giving “economic power back to health care providers who have a long history of behaviors motivated by self-interest rather than the public interest.”

Legislators’ newfound interest in allowing collective bargaining is startling because it represents a substantial reversal of long-standing public policy of endorsing competitive approaches to health care. Although advocates cite the need to “level the playing field” to counter “unbelievable market domination” between payers and providers, an examination of New York’s marketplace portrays a healthy competitive environment. In October 2005, **The United States Government Accounting Office** (GAO) released data

that reported that the number of health plans operating in New York exceeded the national median number of licensed carriers in the small group market by 30%. Furthermore, the median share of the small group market held by the state's largest carrier is **50% less** than the national average.

Despite claims to the contrary, this legislation is solely designed to increase physician compensation. This is ironic because, by any measure, physicians' salaries are among the highest of all professionals and have been steadily increasing. The Jackson & Harris Physician Salary Survey of 2004 revealed that the average salary for a Family Internist in the Northeast was \$162,601. The average for a general surgeon was \$298,597.

More than 100 years ago, labor unions played an important role in helping "downtrodden" employees who had little or no bargaining power to make a living wage. **A.6458** turns the historical role of unions on its head by allowing individuals who represent the *wealthiest* portion of our society to increase their wealth through price-fixing at the expense of patients. Physicians who earn, on average, nearly \$200,000 a year should not be given additional leverage to increase their income at the expense of working people.

HPA urges the legislature to focus on improving quality and affordability of health care, and to reject measures that foster price-fixing. **A.6458** is bad medicine for all New Yorkers.

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The New York Health Plan Association represents 30 health plans that provide comprehensive health care services to nearly 6 million New Yorkers.