

# MEMO IN OPPOSITION

**FOR IMMEDIATE RELEASE:** June 20, 2006

Re: **S.8265-A (Volker) /A.11808-A (Grannis)** – An act to amend the insurance law, in relation to the ability of insureds to obtain prescription drugs from participating pharmacies.

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This legislation, S.8265-A/A.11808-A, seeks to prohibit a mandatory pharmacy mail order option for purchasers of the pharmacy rider. This legislation diminishes pharmacy options for employers while increasing the expenditures on drugs solely to enrich community pharmacists. The New York Health Plan Association (HPA) strongly opposes its passage.

## **HIGHER PHARMACY COSTS FOR ALL**

Rapid growth in drug spending has encouraged health plans and other payers to adopt strategies to better harness economies of scale to dampen rising pharmaceutical costs. One strategy payers have incorporated is instituting a drug benefit that requires all maintenance medications (after initially being filled at a retail pharmacy) to be filled by a mail order facility. This legislation would expressly prohibit use of this model (mandatory mail order) even if it leads to a favorable cost sharing arrangement for all parties including the consumer. This legislation will increase drug costs in two ways. First, employers will be unable to achieve mail-order volume discounts because a portion of the volume will be diverted to other retail outlets. Second, administrative costs will increase to compensate for the additional plan oversight of the community network. It is important to note that pharmacy is not a mandated benefit. If you eliminate cost-effective distribution options, such as mandatory mail programs, some New Yorkers may lose pharmacy coverage altogether.

The possible pharmacy savings lost by this legislation are significant. At the end of 2005, the Maryland Health Care Commission examined legislation similar to S.8265-A/A.11808-A and concluded that eliminating mandatory mail order programs reduced drug savings that could be achieved by Maryland consumers by as much as 6%. At a time when pharmacy expenditures are rising at two to three times the rate of inflation, legislation that will add to the cost of drugs is a bad prescription for New York's health care system.

## **COMMUNITY PHARMACIES SUFFERING? NOT SO!**

Despite claims to contrary, community pharmacies continue to flourish in New York and nationwide. Independent pharmacies constitute a \$78 billion industry, dispensing 44% of the prescriptions in the retail market. While the popularity of mail service has risen in recent years, it is not a threat to the independent retail market because the pharmaceutical "pie" continues to grow. According to Pfizer's 2006 NCPA-Pfizer Digest, the number of prescription dispensed annually per pharmacy has risen from 190 per day in 2004 to 204 per day in 2005. Mail services have not put independent pharmacies at risk – they have shared in the overall growth of pharmacy expenditures. The Chief Executive Officer of Walgreen's, David Bernauer, recently said:

***“There is a prevailing notion out there that mail service is going to put drug stores out of business, that’s simply not true. Yes, mail service is growing and it will continue to grow at least for a while longer. But the reality is, there’s plenty of business coming for us both to grow.”***

According to the independent pharmacists’ own Website, average independent pharmacy sales are \$3.98 million annually, up more than 10% since 2004. These data hardly suggest these entities are in need of special economic protections. Perhaps the most compelling statistic as to the status of retail pharmacies in New York is that since 2000, the number of licensed pharmacies has actually increased to more than 4,500 statewide.

#### **LABOR UNIONS TURNING TO MANDATORY AND OTHER MAIL SERVICE PROGRAMS**

As health care costs have skyrocketed, health insurance issues have rivaled wages as the most contentious collective bargaining issues. To protect member income and in recognition of the effectiveness of mail service programs, several large unions in New York have adopted mail service (including mandatory) programs. United Federation of Teachers (modified mandatory), District Council 37 (mandatory), SEIU 1199 (mandatory for retirees) and the United Auto Workers (mandatory) are examples of unions that have negotiated mail service programs that would be prohibited under this measure. The passage of this legislation would require these unions to re-open their negotiations on these issues – likely leading to additional, unwelcome out-of-pocket costs to their members.

This legislation will engender higher costs for consumers and payers to subsidize community pharmacists who, by their own admission, are experiencing increased sales and rising revenues. It will increase the state’s bureaucracy to further fragment health plan oversight while abrogating several labor contracts. For New York, the cost of this legislation is too high.

For all these reasons, HPA opposes S.8265-A/A.11808-A.

*The New York Health Plan Association represents 31 managed care health plans that provide comprehensive health care services to nearly 6 million New Yorkers.*