

MEMO IN OPPOSITION

FOR IMMEDIATE RELEASE: February 13, 2006

Re: A.2204 - Gottfried

An act to amend the public health law and insurance law, in relation to certain contracts or agreements by health maintenance organizations.

This proposal, A.2204 offers myriad, non-germane proposals that undermine the provision of health care in New York. While one section would duplicate existing laws, other portions are more disconcerting due to their anti-consumer or burdensome nature. Accordingly, the New York Health Plan Association (HPA) opposes this bill.

Subdivision 7 of this legislation is decidedly anti-consumer because it promotes out-of-network referrals that will cause patients to incur additional and unnecessary out-of-pocket expenses for health care without requiring providers to inform patients that they will be liable for those costs. A more balanced approach is embodied in A. 4559 (Boylund, et al.), which requires that any provider that makes an out-of-network referral must inform the patient that they are being referred outside the network. Ideally, the patient should also be notified that they could incur additional charges for those services.

Section 8 prohibits disclosure of a patient's diagnosis on a prescription. However, plans may require this information for two purposes. A diagnosis provides the pharmacist an opportunity to pursue collaborative therapy, thereby, seeking to improve the quality of care the patient receives. In other cases the request is made to ensure the drug is not being utilized for off-label or cosmetic purposes (i.e.: Retin-A). Disclosure of an enrollee's diagnosis has been deemed appropriate under HIPAA. A flat prohibition on disclosure may require health plans to establish prior authorization processes for certain agents. This will result in a more cumbersome prescribing process requiring greater paper work and lost time for providers and patients alike.

Subdivision 9 of the bill unnecessarily requires the approval of prescribing providers for all pharmaceutical substitutions, except for generic drugs. This duplicates New York's prescribing laws, which already place duly authorized prescribers at the center of the prescribing process. Alterations in drug therapy can only be executed under the authority of the patient's provider. Pharmacists can be sanctioned if they are found to be "substituting without authorization [of] one or more drugs in the place of the drug or drugs specified in a prescription."

We believe A.2204 is an unnecessary and, more importantly, anti-consumer and burdensome proposal. For all these reasons, the New York Health Plan Association urges your opposition to this proposal.

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