New York

HPA

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MEMO IN OPPOSITION

FOR IMMEDIATE RELEASE: April 23, 2007

Re: S.1776 (Golden) – An act to amend the elder law, in relation to creating the state pharmaceutical local choice program.

This legislation, S.1776, seeks to limit pharmacy mail order options for health insurance purchasers. This proposal enriches community pharmacists at the expense of patients and will result in increased pharmaceutical costs. The New York Health Plan Association (HPA) 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 help dampen rising pharmaceutical costs. Payers have incorporated several approaches to increase mail order pharmacy utilization including lowering co-payments for 90-day prescriptions filled by mail or instituting a policy that requires all maintenance medications (after being filled at a retail pharmacy) to be filled by a mail order facility. This legislation would expressly prohibit use of a mandatory mail order benefit even if it leads to a favorable cost sharing arrangement for all parties. This prohibition will result in increased costs for insurers and in turn, employers and employees.

The pharmacy savings lost by this legislation are significant. At the end of 2005, the Maryland Health Care Commission examined legislation similar to S.1776 and concluded that eliminating mandatory mail order program reduced potential drug savings by as much as 6% in Maryland. 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.

INDEPENDENT PHARMACIES SUFFERING? NOT SO!

Despite cries to contrary, community pharmacies continue to flourish in New York and nationwide. Independent pharmacies constitute a $85 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. The pharmaceutical growth curve is expected to continue, while the supply of pharmacists may not be able to keep up with this trend. The National Association of Chain Drug Stores has estimated that between 2004 and 2010, the number of retail prescriptions will increase 27% from 3.27 billion in 2004 to 4.1 billion in 2010, while the supply of community pharmacists is expected to increase only 7%. 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 sales at an independent pharmacy are $3.98 million annually, up more than 10% since 2004. These data hardly suggests 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 4,800 statewide.

CONFERS BROAD POWERS TO THE EPIC PANEL OVER COMMERCIAL PLANS

S.1776 inappropriately makes significant changes to commercial pharmacy insurance benefits by amending the Elder Law. This odd drafting scheme bypasses insurance law to expand the powers of the Consumer Pharmaceutical Insurance Coverage Panel whose members are the same as the EPIC panel who are charged with overseeing New York's extensive State Pharmaceutical Assistance Program (SPAP). This legislation would empower the EPIC panel to have oversight of commercial plans to protect the economic interests of community pharmacists. This includes an annual examination of community pharmacy access provided by health plans and oversight of plan notification to enrollees that they can purchase prescription drugs at a retail pharmacy rather than through a mail order facility. These powers overlap in part, with the authority of the Department of Health, which is required to certify the network adequacy of every plan's pharmacy benefit. This represents a significant increase in powers for an entity that has little knowledge or expertise in pharmacy markets in the commercial arena.

S.1776 is protectionist legislation of the worse kind. It 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.1776.

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