



# MEMORANDUM IN OPPOSITION

**FOR IMMEDIATE RELEASE: JANUARY 27, 2012**

Re: S.3186-A (Hannon)/A.2474-A (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.

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The New York Health Plan Association (HPA) opposes S.3186-A/A.2474-A, which authorizes collective negotiations for certain health care providers. This proposal is anti-consumer as it will result in consumers and employers facing higher prices for health insurance coverage and make it more difficult for New York to attain universal coverage.

Historically, antitrust laws have effectively 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 prices for medical services. This has benefited patients by encouraging greater choice, higher quality products and services, and innovative approaches to health care delivery. Current law has been crucial to promoting competition and preventing local provider monopolies that would allow physicians to set unfair prices. This legislation would diminish competition to the detriment of premium payers and patients.

In October of 2011, the Federal Trade Commission (FTC) issued an opinion outlining numerous concerns with S.3186-A/A.2474-A (letter attached). The FTC opinion noted that “the underlying assumption of the legislation – that consumers would benefit from collective negotiations among providers – is fundamentally flawed.” It stated the bill would pose “substantial risk of consumer harm” as it “will likely raise prices and reduce access for health care services, without ensuring improved quality of care or other consumer benefits.”

Additional opposition to this legislation is widespread:

- ◆ The **FTC** issued a similar opinion in June 2011 on legislation in Connecticut that would allow physicians to collectively bargain. In that opinion the FTC concluded, “this legislation is likely to foster anticompetitive conduct that is inconsistent with federal antitrust law and policy, and that such conduct could work to the detriment of Connecticut health care consumers.”
- ◆ The **United States Department of Justice**, in conjunction with the **FTC**, issued a report in 2004 (*Improving Health Care: A Dose of Competition*) condemning provider collective bargain stating that such measures would “likely harm consumers by increasing costs without improving quality of care.”
- ◆ The **Center for Medical Consumers** opposes 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’ interest to allow collective bargaining 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” by payers, 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

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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 at a time when the nation is in the midst of implementing health care reform and New York continues exploring affordable access options, it would seem illogical to direct limited resources to further compensate physicians who are widely recognized as one of the wealthiest professions in the nation.

2011 Physician Compensation Survey  
American Medical Group Association  
(Based on 2010 Data)

<b>Specialty</b>	<b>Median Salaries</b>	<b>2008-2011 Percentage Change</b>
Allergy	\$265,592	13.55%
Anesthesiology	\$372,750	5.61%
Cardiac Surgery	\$532,567	7.09%
Cardiology	\$422,921	11.30%
Dermatology	\$386,068	11.95%
Diagnostic Radiology - Interventional	\$492,102	6.24%
Diagnostic Radiology – Non Interventional	\$461,250	9.60%
Emergency Medicine	\$285,910	11.30%
Endocrinology	\$233,000	13.38%
Family Medicine	\$208,658	9.71%
Gastroenterology	\$415,872	11.00%
General Surgery	\$367,315	8.80%
Gynecology and Obstetrics	\$302,638	6.90%
Hospitalist	\$229,294	11.61%
Internal Medicine	\$219,500	9.81%
Neurology	\$246,500	7.59%
Oncology	\$325,000	7.68%
Ophthalmology	\$356,339	16.72%
Orthopedic Surgery	\$501,808	11.51%
Otolaryngology	\$377,430	12.28%
Pathology	\$354,917	14.48%
Pediatrics	\$213,379	10.01%
Psychiatry	\$217,169	5.20%
Urgent Care	\$230,239	14.60%
Urology	\$413,746	8.02%

HPA urges the legislature to focus on improving quality and affordability of health care, and to reject measures that foster price-fixing. **S.3186-A/A.2474-A** is bad medicine for all New Yorkers.

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