



# MEMORANDUM IN OPPOSITION

**FOR IMMEDIATE RELEASE: MAY 23, 2011**

Re: S.4597 (Hannon)/A.7431 (Morelle) – AN ACT to amend the public health law, in relation to registration of office-based surgery facilities and payments for the use thereof.

90 State Street • Suite 825  
Albany, NY 12207-1717  
518.462.2293  
Fax: 518.462.2150  
www.nyhpa.org

---

This legislation, S.4597/A.7431, would require all office-based surgery practices to register with the Department of Health (DOH) to receive a certificate of registration and charge a facility fee for services provided. The New York Health Plan Association (HPA) opposes this legislation as it would impose higher prices for office-based surgery services, resulting in increased health insurance costs for consumers and employers.

Integrated health care networks are the foundation of health care plans. Providing coverage through a network increases quality, enhances medical competency and encourages greater coordination and collaboration by providers. Networks also promote cost efficiencies, which help make health care more affordable and accessible. Building a quality network requires considerable skill and a menu of incentives that encourage the best providers to join a network.

In 2007, New York State enacted a law that required physician practices that performed office-based procedures needed to become accredited. HPA supported that legislation, as it was an important public health initiative aimed at improving the quality of care that patients received. Currently there are approximately one thousand accredited office-based practices operating in New York. This legislation would now require those office-based practices to receive a certificate of registration from the Department of Health.

Health plans contract with office-based surgery practices because many, but not all, provide high quality of care and benefits to consumers and employers. The use of an office-based surgery practice is often less expensive than the use of an Article 28 facility (hospital or ambulatory surgery center). Office-based practices also have lower overhead costs than Article 28 facilities. Most health plans pay an enhanced reimbursement rate to these practices, which is either an enhanced physician fee or a “site-of service-differential.”

This bill would require plans to pay office-based practices a more costly facility fee, which is counterintuitive at a time when the state is focused on reducing the cost of health insurance. Moreover, the bill would require plans to pay a facility fee to these practices regardless of whether they are in-network or out-of-network. This undermines health plans’ ability to enhance their networks by utilizing incentives for providers to remain in-network. The act of becoming certified by DOH does not justify the payment of a facility fee. If out-of-network providers would like the enhanced reimbursement paid to in-network providers, they have the option of participating in the plan’s network.

This legislation would have the unintended consequence of causing some employers to discontinue coverage options that include an out-of-network benefit. For these reasons, HPA opposes S.4597/A.7431.

*The New York Health Plan Association represents 25 managed care health plans that provide comprehensive health care services to nearly 7 million New Yorkers.*