

MEMO IN OPPOSITION

FOR IMMEDIATE RELEASE: MARCH 6, 2006

Re: S.5456-A (Spano)/A.8420-A (Nolan)

An act to amend the labor law, in relation to establishing the “employee’s mail order pharmacy bill of rights.”

This legislation, S.5456-A/A.8420-A, to establish an “employee’s bill of rights” for mail order pharmacy, would enrich community pharmacists at the expense of premium payers. The New York Health Plan Association (HPA) opposes this legislation, which eliminates the effective use of a critical tool – mail service – in efforts to reduce rising prescription drug costs.

A PRESCRIPTION FOR RISING DRUG COSTS – MAIL SERVICE

According to Centers for Medicare and Medicaid Services, prescription drug spending rose 200% in the decade preceding 2000. One study has projected the annual prescription cost increases between 2003 and 2007 will be approximately 12.5%. Pharmaceutical coverage is *not* a mandated benefit in New York. As the cost of pharmacy coverage climbs at two to three times the rate of inflation, the likelihood that premium payers will decline pharmaceutical coverage increases. This is not an idle concern in New York where dropping the pharmacy rider could save a premium payer about 15% - more than \$1,000 on a family policy.

Access to pharmaceuticals is a critical problem in New York. Today nearly 3 million New Yorkers have no health insurance coverage. It is estimated that an additional 1.5 to 2 million New Yorkers with health insurance does not have pharmaceutical benefits. Employers, anxious to maintain this important medical component, have turned to innovative benefit designs to gain relief from rising pharmacy riders.

Mail service pharmacy is one distribution method many premium payers have embraced as an effective approach to maintaining a quality pharmacy benefit. Several studies estimate mail service saves health plans approximately 5% to 10% of the cost of the same agents in the retail setting. A 2005 report issued by The Lewin Group determined that at the current market penetration level, mail order would save our health care system nearly \$80 billion over the next 10 years. Mail order savings are the result of larger volume discounts, fewer dispensing fees and advanced automation. A 2003 Government Accounting Office study determined that the average price of brand-name prescriptions through mail service pharmacies was 27% below the average retail price consumers would pay at a community pharmacy, and a whopping 53% below the retail price for

generic drugs. As lawmakers examine approaches to making pharmaceuticals coverage more accessible, we question why they would consider excising this level of competition from the marketplace.

MAIL-SERVICE BENEFIT PROVIDES HIGH LEVEL OF QUALITY AND PATIENT SATISFACTION

Mail service is a proven distribution method for maintenance prescriptions. According to the Pharmaceutical Care Management Association, automated mail service pharmacy achieve dispensing accuracy rates **23 times** greater than those reported in a benchmark of retail community pharmacies – including a significant reduction in “serious errors” common across retail pharmacy settings. A 2003 study found dispensing errors at community pharmacies approached one out of fifty prescriptions, while the mail-service error rate was **zero** in several critical areas including dispensing the correct drug, dosage and dosage form. Mail order facilities use efficient systems and state of the art technology including bar coding that quadruple-check prescriptions. Retail pharmacies lack advanced automation and pharmacists in these settings face continuous disruptions during their day, with ringing telephones and customers at the counter increasing the chance of a dispensing error.

Mail order pharmacies not only fill more prescriptions more accurately than retail pharmacies, this setting also lends itself to enhanced oversight to the benefit of patients. Mail service operations are able to separate the clinical functions of pharmacy from the automated task related to dispensing, and because they have access to real time data, mail service pharmacists are able to focus on what they do best – work with patients and prescribers to provide the most timely, accurate clinical advice possible.

Patient satisfaction with the service and convenience of mail service is high. Data from the Patient Satisfaction Survey of Prescription Drug Benefits Programs (2002) indicates that plan members overwhelmingly “like to use mail-service pharmacies.” A recent survey of 14,000 mail service consumers nationwide found that 98% indicated they were satisfied or neutral on the condition of the drugs they received. A poll issued last month reported that 83% of Medicare recipients found mail order a “good idea for seniors to have” and more than one-third of the respondents said that a mail order benefit made them “more likely” to enroll a Medicare prescription program. Clearly, this level of patient satisfaction is driving the popularity of these programs while providing an incentive for more employers to consider mail order benefits.

This legislation will seriously undermine the future of pharmacy benefits. An aging baby boom population and an increasing number of new medications on the market have caused the number of patient encounters and prescriptions to increase while the number in pharmacists in practice has remained relatively

unchanged over the past decade. As the nation approaches dispensing nearly 4 billion prescriptions annually, the importance of automation and robotics that can be offered on a grand scale by state-of-the-art facilities will prove to be a critical in the distribution of pharmacological products. Hindering effective mail services by eliminating appropriate patient incentives to utilize these services could seriously damage New York's pharmacy distribution system.

COMMUNITY PHARMACIES ARE NOT SUFFERING AND ARE USING THEIR CLOUT IN THE MARKETPLACE

Despite cries to contrary, community pharmacies continue to flourish in New York and nationwide. Independent pharmacies constitute a \$78 billion dollar 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. That is because the pharmaceutical "pie" continues to grow. According to AARP the percentage of prescription dispensed between 1993 and 2001 rose by 65%. Most of these prescriptions – are filled at least once (and in most cases multiple times) at the retail level. Mail services have not put independent pharmacies at risk – it has just shared in the growth of overall 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. 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."

Indeed, according to their own websites, average independent pharmacy sales are \$3.24 million annually, up 14% since 2002. This 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 4,500 statewide.

Some retail pharmacies – notably Walgreens and CVS have exerted their muscle in the marketplace and have refused to join networks that require mandatory mail order. Other retailers are considering following suit while still others are establishing their own mail service facilities. This clearly shows a healthy marketplace where competition is working to the benefit of consumers and the health care system.

Health plans believe that pharmacy benefits are an essential component to a comprehensive health plan. Mail service represents one way that employers and

other premium payers can continue to provide these valuable services. Mail service systems compare favorably to community pharmacies in many areas including safety and consumer convenience. It has less safety or efficacy concerns than, for instance, importation proposals that many legislators champion. Eliminating these services under the guise of “employees’ rights” seems counterproductive and self serving for community pharmacists who would seemingly prefer to see some New Yorkers lose all pharmacy benefits than giving them the option of using a mail service.

Eliminating the economic advantages of mail services will hurt all New Yorkers by increasing the cost of pharmaceuticals. Accordingly, HPA opposes A.8420-A/S.5456-A.

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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.