

# MEMO IN OPPOSITION

**FOR IMMEDIATE RELEASE:** June 13, 2006

Re: S.6375-A (Little)/A.6187-B (Cahill)

An act to amend several laws in relation to reimbursement for the surgical first assistant services of registered nurse first assistants.

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This legislation seeks to provide direct reimbursement for first assistant surgical services performed by registered nurses. Under this proposal, plan enrollees will be “fair game” for a new group of operating room providers who may seek to balance bill patients directly for services rendered. The legislation will also drive higher insurance costs by fueling the unbundling of hospital services and utilization of unnecessary services. Because of these concerns, the New York Health Plan Association (HPA) opposes this legislation.

## **UNDERMINING PROVIDER CONTRACTING**

This legislation would require health plans to reimburse surgical first assistants regardless of a contractual (or more importantly non-contractual) relationship with the provider. This is particularly problematic in operating room settings, when patients — often in trauma — are unable to demand services by participating providers, and hospitals lack the interest, incentive or ability to secure care that is cost effective for the patient. Plans are already experiencing considerable problems in this area, most prevalent among hospital radiology and anesthesiology providers. This legislation would further fragment hospital operating room coverage, reducing motivation to appropriately limit unnecessary utilization of these providers.

Traditionally, health plans have paid most hospitals a single, “global” fee based on the service rendered. For instance, in most cases, plans negotiate a single fee for labor and delivery services. Many other highly utilized procedures are similarly reimbursed. Establishing another layer of non-contracted hospital providers to be directly reimbursed will encourage additional operating room charges. A 2004 GAO study on Medicare reimbursement for these providers highlighted this concern:

*“[P]aying a health professional under the Medicare physician fee schedule to an assistant-at-surgery, instead of including this payment in an all-inclusive payment, gives neither the hospital nor the surgeon an incentive to use an assistant only when one is medically necessary.”*

Health plans should be protected from paying for providers who are not under contract with the plan and patients should be shielded from balance billing practices by these providers. This is not a casual concern as HPA has been alerted to at least one case where the first assistant registered nurse billed a patient for more than the contracted rate of the surgeon.

This legislation will increase the cost of care by adding the number of individuals who can bill for services in a surgical setting. This will unnecessarily expose patients to higher out-of-pocket cost and health plan payers to higher premiums.

For all these reasons, HPA opposes this legislation.

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*The New York Health Plan Association represents 31 managed care health plans that provide comprehensive health care services to nearly 6 million New Yorkers.*