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January 5, 2012

RE: AN ACT to amend the public health law, in relation to registration of office-based surgery facilities and payments for the use thereof

A. 7431A (Morelle)
S. 4597A (Hannon)

MEMORANDUM IN OPPOSITION

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York State Conference of Blue Cross and Blue Shield Plans strongly opposes the enactment of this legislation, which would require the registration of office-based surgery facilities and would mandate the payment of an additional fee by health insurers for the utilization of these facilities. Specifically, this bill would require health insurers to pay the hospital facility fee for services provided at an office-based surgery center. Imposing this costly mandate upon health insurers would necessitate a commensurate increase in insurance premiums, making health insurance less affordable for individuals and businesses alike. This is simply unacceptable at a time when many New Yorkers are struggling to stay afloat in a floundering economy.

The Bill disrupts market based principles of provider reimbursement by mandating a certain level of reimbursement for specific providers, and it will have a reverberating effect on other provider reimbursement. Moreover, advocates for this legislation seek to obtain the hospital facility fee for office based surgery centers without appreciating the fact that hospital reimbursement is part of an overall hospital fee which frequently considers total hospital contracts. In those contracts, reimbursement for certain care offsets losses experienced by the hospital in other areas and for other services, such as inpatient services or charity care. Thus, the reimbursement paid to a hospital for certain services may exceed what would normally be paid to another provider in a different setting for the same services because it assists the hospital in

subsidizing that other care. Tying office based surgery reimbursement to hospital reimbursement fails to recognize those other important services provided by hospitals and results in a loss to the hospitals. Office based surgery facilities do not provide the scope of services hospitals provide. As such, giving office based surgery facilities the benefit of an increased rate is inappropriate and will only unnecessarily drive up the cost of care.

While the proponents of this legislation contend that it will increase access to more affordable care, they fail to note 1) the dramatic increase in office based surgery facilities throughout the state over the last several years, and 2) that these same services can be provided in a physician's office to the extent the physician is authorized to perform the services. This legislation is designed to accomplish only one goal: to increase the reimbursement for office based surgery providers.

For these reasons, the New York State Conference of Blue Cross and Blue Shield strongly opposes enactment of this legislation

Respectfully submitted,

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