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May 1, 2011

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. 7431 (Morelle)
S. 4597 (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 a specific provider, which will have a reverberating effect on other provider reimbursement. Moreover, the advocates for this legislation seek to obtain the hospital facility fee for office based surgery centers, failing to appreciate that the reimbursement paid to hospitals is part of an overall hospital fee which frequently considers the total hospital contract in which reimbursement for certain care will offset losses experienced by the hospital in other areas and services, such as inpatient services or charity care. Thus, the reimbursement paid to a hospital for certain care may be in excess of what would normally be paid to another provider in

a different setting for similar services in order assist the hospital in subsidizing other care services. Pegging office based surgery reimbursement to hospital reimbursement fails to recognize these other services provided by hospitals at a loss to the hospital. Office based surgery centers do not provide the scope of services provided at a hospital and therefore giving them 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 this legislation will increase access to more affordable care, they fail to note both the dramatic increase in office based surgery centers throughout the state over the last several years and that these same services can be provided in a physician's office to the extent the physician is otherwise authorized to perform such services. Indeed, this legislation is designed to accomplish only one goal: to increase the reimbursement for office based surgery centers. Finally, the underlying financial analysis regarding potential savings is also very misleading and likely highly overstated since it uses "charges" as the measure of costs in ambulatory surgery centers and hospital outpatient department settings, as opposed to reimbursement rates and overall cost of care.

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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