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June 2, 2017

RE: AN ACT to amend the education law, in relation to authorizing pharmacists to refill non-controlled substance prescriptions for quantities of drugs not to exceed a ninety-day supply, subject to certain conditions

A.6371-B (Simanowitz)
S.5171-B (Felder)

MEMORANDUM IN OPPOSITION

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York State Conference of Blue Cross and Blue Shields Plans oppose enactment of this Bill, which would allow pharmacists to refill a patient's prescription with an amount greater than was originally authorized by the prescriber, up to a 90 day supply, providing pharmacists with discretion on the quantity of a prescription refill. While the Sponsor cites reduced prescription costs as the impetus of this legislation, this Bill will lead to increased prescription drug utilization and costs in New York, allow for access to prescription drugs outside of the purview of the prescribing practitioner and increase the risk for fraud and abuse of expensive, non-controlled, prescription drugs. In fact, this legislation represents such a drastic departure from current practice that the Bill was amended to exempt pharmacists refilling a prescription in a greater quantity than prescribed, as permitted by this Bill, from committing a misdemeanor.

At its core, this legislation authorizes, and may encourage, prescription drug refills in an amount that exceeds the quantity necessary for the treatment of an injury or illness. Pharmacists, as opposed to the treating physician, would be permitted to increase the quantity of a prescription drug refill so long as it does not result in an increased or additional coinsurance, deductible, or other out-of-pocket expense from the patient, or otherwise restricted by the prescriber. While this limitation benefits patients, it is an additional expense that must be borne ultimately by increased premiums. In situations where the additional quantity is not necessary for the treatment of the patient's illness or injury, this legislation would allow for increases in the amount of prescription drugs available, regardless of medical necessity. As prescription drugs are the fastest growing component of the health care premium, this legislation would only exacerbate

this problem.

This legislation also disrupts the prescriber/patient relationship by authorizing pharmacists to unilaterally increase the refill quantity, without even consulting with the treating physician prior to the refill. Certain prescription drugs contain complex treatment regimens, requiring multiple products, and the general oversight and management of a prescriber that is well-versed in such treatments. While pharmacists may have training regarding certain complex treatment regimens, they may not be aware of the various medical needs of the patient. The patient's prescriber is in the best position to manage a patient's prescription drug regimen. This legislation would allow for pharmacists to unilaterally extend a patient's prescription drug regimen, while putting an additional responsibility for prescribers to clearly limit the refill amount if such extension is not warranted or harmful. While amendments to the legislation require the pharmacist to notify the prescriber within 48-hours, there remains no oversight of the initial decision to increase the quantity.

Further, this Bill increases the potential for fraud and abuse of non-controlled substances. Expensive non-controlled substance prescription medications, such as AIDS medication, are often diverted to the black market due to their high value. Illicit use of these medications can lead to adverse outcomes due to lack of medical supervision and improper use and handling, as well as increased healthcare costs. This legislation has the potential to exacerbate this significant problem by allowing pharmacists to refill prescription regimens beyond what is actually necessary, thereby increasing the availability of these drugs to the illicit market.

For the foregoing reasons, the Blue Cross and Blue Shield Plans urge that this bill not be enacted.

Respectfully submitted,

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