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RE: AN ACT to amend the insurance law, in relation to coverage of prescriptions obtained by mail order or at a non-retail pharmacy

A347 (Joyner)

**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 oppose enactment of this Bill, which would allow retail pharmacies to by-pass health plan network and contractual requirements if a prescriber decides such pharmacy is the most “appropriate” setting in which to fill the prescription. This Bill would carve-out a limited and administratively burdensome exception to the original “mail order” legislation in order to allow retail pharmacies to avoid network participation and contracting requirements, even if to the detriment of the consumer. This Bill creates administrative complexities for health insurers, which results in higher costs, and limits the ability of health insurers to monitor quality; all in an effort to allow non-participating retail pharmacies to obtain reimbursement without meeting contractual conditions.

The original “mail order” legislation provided consumers with the option to fill prescriptions at a retail pharmacy that otherwise met all of the same plan requirements as a mail order pharmacy, including price, terms and conditions, and network participation. This Bill maintains this construction, yet establishes an avenue for prescribers to direct patients to retail pharmacies that are not within an insurer’s provider network and not subject to the same operating standards that would be imposed on participating mail order or retail pharmacies.

**1. ALLOWING RETAIL PHARMACIES TO AVOID NETWORK PARTICIPATION REQUIREMENTS DESTROYS THE NETWORK CONCEPT AND RAISE INSURANCE RATES.**

One of the main goals of a health insurer is to reduce the cost of health insurance while at the same time increasing the quality of care for patients. This is achieved by a health plan's ability to contract with a limited number of providers at an agreed upon rate in exchange for the plan's directly reimbursing providers for care provided to its enrollees. This Bill would allow for prescribers to direct patients to a non-participating retail pharmacy upon a determination that a retail setting is more clinically appropriate. In removing the incentive for network participation, pharmacists would choose not to participate so as to avoid the requirements of proving their

qualifications or participating in a variety of quality assurance programs. Health insurers would lose their ability to ensure that only the best, most qualified pharmacists provided services to their members. Moreover, health insurers would be less able to keep track of and improve the health status of their members as network providers agree to participate in a variety of quality assurance programs and are increasingly held accountable for the health outcomes of their patients.

**2. THIS BILL IMPEDES THE ABILITY OF INSURERS TO PROVIDE SIGNIFICANT QUALITY AND VALUE FOR MEMBERS**

In efforts to keep premiums as low as possible, without compromising quality, innovative cost containment strategies such as the use of mail-order pharmacies should be embraced, rather than discouraged. This Bill would impede the ability of health insurers to deliver value to their members by allowing prescribers to dictate the use of non-participating retail pharmacies and eliminating the ability of health insurers to ensure the quality of non-participating retail pharmacies as they are not subject to the contractual terms and conditions required of participating pharmacies.

Health insurers should have the right to insist that its pharmacies provide high quality services at low costs, and if retail pharmacies wish to provide services to members, they should have to adhere to the same terms and conditions to ensure similarly high quality service, without special exception. Dictating that health insurers must diminish their own provider requirements and reimburse non-participating pharmacies who do not meet the same high-level standards for quality and efficiency will unquestionably hurt consumers and only benefit certain retail pharmacies.

Ultimately, the loss of the efficiencies, impact on quality and added administrative expenses described above would force health insurers to raise premiums.

For the foregoing reasons, the New York State Conference of Blue Cross and Blue Shield Plans opposes this legislation and urges that it not be enacted.

Respectfully submitted,

HINMAN STRAUB ADVISORS, LLC.

Legislative Counsel for the Blue Cross and Blue Shield Plans of New York