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May 3, 2019

RE: AN ACT to amend the public health law and the insurance law, in relation to improper practices relating to staff membership or professional privileges of a physician and board certification

A5140 (Schimminger)
S5280 (Rivera)

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 opposes the enactment of this legislation, which inappropriately restricts the ability of health insurers to utilize board certification when credentialing providers. Board certification demonstrates a certain level of quality, education, and overall qualification, providing health insurers with an accurate tool in determining whether a provider meets the standards of network participation. In prohibiting health insurers from requiring that providers within their network are board certified, this legislation would undermine the ability of health insurer to develop their provider network and deliver high quality services.

Provider credentialing is not an arbitrary or exclusionary technique, but rather, a necessary tool designed to protect consumers against health care providers who are not qualified or have a history of risking the safety of patients. Credentialing is a process used to evaluate the qualifications and practice history of a provider, and includes a review of a provider's education, training, residency, and certifications issued by a board in the provider's area of specialty. Board certification plays an important role in determining whether a provider meets the standards for network participation.

The American Board of Medical Specialties (ABMS) has been certifying doctors for almost 100 years to help assure patients as well as hospitals, health plans, insurers and the government that these doctors are qualified to provide expert health care in an ever-expanding number of medical specialties and subspecialties. Each board specialty is responsible for developing and implementing the educational and professional standards for quality practice in a particular medical specialty or subspecialty, as well as for evaluating candidates for Board Certification. Board Certification is very different from medical licensure, which sets the minimum competency requirements to diagnose and treat patients and is not specialty specific. Board Certification is a

voluntary commitment to a career-long process that demonstrates a physician's exceptional expertise in a particular specialty and/or subspecialty of medical practice. More importantly, Board Certification is an ongoing process, and not a one-time exercise, which is designed to ensure that patients receive continuous, high quality care from Board Certified providers. In obtaining and maintaining Board Certification, providers demonstrate that they are keeping pace with the latest advances and best practices in their specialty, which translates into higher standards and better care. Research increasingly links certification and continuous professional development with improved quality of care.

This Bill would prohibit plans from denying network status to providers that are not board-certified, regardless of the reason why the provider does not have a board certification. This provision will benefit those providers that have been denied board certification, who have had their certification revoked, and those who have let their certification lapse. In these instances, the board certification status of the provider is critical to the credentialing process as it demonstrates the skill, expertise and experience of the provider. The absence of a board certification, or the revocation of board certification, indicates that the provider may not be suitable for participation in the insurer's network. The inability of insurers to use this information in determining whether the provider is suitable for their network puts the health insurer's enrollees at risk and prevents insurers from responsibly administering care and benefits to their enrollees.

Further, this Bill would result in the Legislature dictating the qualifications of providers within individual health insurers provider networks, restricting the flexibility of insurers to maintain their provider networks, which will both inhibit the health plans ability to control costs and decrease the overall quality of care delivered by the network. Part of the success insurers have had in managing health care costs is due to their ability to select highly qualified providers who will deliver efficient, quality care in exchange for participation in their provider network. The flexibility of the health plan in making such determinations is crucial to maintaining a network that controls costs without compromising the quality of patient care. By limiting the ability of insurers to use board certification as a condition of network participation, this Bill will decrease the networks ability to efficiently deliver quality care to the health insurer's enrollees. In turn, an inadequate network will raise the costs incurred by the insurer or managed care health plan.

For the foregoing reasons, the Blue Cross and Blue Shield Plans opposes this Bill and urges that it not be enacted.

Respectfully submitted,

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