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January 10, 2020

RE: AN ACT to amend the public health law and insurance law, in relation to the use of abuse-deterrent technology for opioids as a mechanism for reducing abuse and diversion of opioid drugs

S6397 (Carlucci)

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 enactment of this Bill, which would significantly increase prescription drug costs for consumers and create an unfair marketing advantage for specific drug manufacturers, including Purdue Pharma, the company that makes the opioid OxyContin and has financially benefited from the opioid crisis, while doing little or nothing to address the problems it seeks to solve. There is no question that the opioid-abuse crisis facing this country is incredibly concerning. However, the reliance on opioids with ADF as part of a broader plan to reduce opioid addiction and abuse is a short-sighted approach to addressing this issue and contradicts guidelines issued by the Centers for Disease Control and Prevention (CDC) which discourage the use of prescription opioids for treating common pain conditions.

When a version of this Bill was first introduced in 2014, the science of ADF technology was in its infancy and the jury was still out on the effectiveness of ADFs. While studies have shown that ADF-opioids have less addictive potential and has reduced the abuse of opioids,¹ other studies have shown that ADF pushed people toward other opioid drugs, including heroin, and that many patients continue to abuse the new formulation simply by taking the tablets by mouth.² Due to continuing significant residual abuse with ADF opioids, other options to solve the opioid epidemic must be explored and implemented, rather than promoting the use of ADF-opioids.

¹ Harris SC, Perrino PJ, Smith L, et al. Abuse potential, pharmacokinetics, pharmacodynamics, and safety of intranasally administered crushed oxycodone HCl abuse-deterrent controlled-release tablets in recreational opioid users. *J Clin Pharmacol*. 2014.

² Cicero TJ, Ellis MS. Abuse-deterrent formulations and the prescription opioid abuse epidemic in the United States: lessons learned from OxyContin. *JAMA Psychiatry*. 2015.

While the Bill is promoted as addressing the opioid crisis, the actual impact of the Bill would provide a significant financial benefit to a limited number of drug manufacturers, including Purdue Pharma, which developed and sells an abuse-deterrent OxyContin formulation. The Bill would require health plans to include “at least one abuse deterrent opioid analgesic per opioid active ingredient” on their formularies, and apply the same cost share as for non-abuse deterrent opioids. In mandating that health plan drug formularies include ADF opioids, this Bill grants the manufacturers of ADF complete bargaining leverage over health plans to dictate the reimbursement for these drugs. This would dramatically undermine the ability of health insurers to negotiate with manufacturers to ensure reasonable costs for members. As a result, manufacturers would stand to financially benefit by simply charging more for their ADF-opioids, which are only necessary due to the opioid crises that they directly contributed to. The State should not require health insurance premiums to increase in order to cover the additional costs for ADF opioids that have yet to be proven effective and which do not address the primary method of abuse, while also providing a financial benefit to drug manufacturers.

More importantly, this Bill has the potential to exacerbate the opioid-abuse crisis by leading providers to feel that the ADF opioids are safe, making them more willing to prescribe them. Indeed, a recent survey conducted by Johns Hopkins showed that nearly half of the internists, family physicians and general practitioners surveyed believed ADF opioids are less addictive than their non-ADF counterparts when in fact the active ingredient in the pills are equally addictive. In 2016, the CDC issued the first national standards for prescription painkillers, urging doctors to avoid prescribing opiate painkillers for patients with chronic pain, determining that the risks from such drugs far outweigh the benefits for most people. The CDC guidelines do not differentiate between prescription opioids with or without ADFs. This Bill perpetuates the misconception that ADF makes prescription opioids safer, which will result in the continued prescribing of opioids to treat pain. The State should follow the CDC guidelines by discouraging the use of prescription opiates, rather than provide an avenue for their continued use.

For the foregoing reasons, the New York State Conference of Blue Cross and Blue Shield Plans opposes enactment of this legislation.

Respectfully submitted,

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