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January 10, 2020

RE: AN ACT to amend the public health law and education law, in relation to the dispensing of partially filled prescriptions

S7115 (Rivera)  
A9034 (McDonald)

**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 authorize a pharmacist to partially fill a prescription for a controlled substance at the request of the prescriber or patient. There is no question that the opioid-abuse crisis facing this country is incredibly concerning. While the underlying goal of this Bill is cast as a significant step toward stemming the crisis, the Bill fails to address critical issues that impact the effectiveness and administration of this Bill.

Similar legislation has been adopted in other States in order to allow opioid prescriptions to be partially filled, reducing the number of unused opioids in circulation. However, as drafted, this Bill fails to include important safeguards that have been adopted in other States to ensure that this legislation achieves the goal of reducing unused opioids in circulation. For example, other States have required the remaining quantity of the prescription must be dispensed at the pharmacy where the original prescription was partially filled. This requirement limits the potential for fraud while also ensuring that the patient is not charged an additional co-payment for the refill. Other safeguards adopted include requiring that the dispensing pharmacist record the date and quantity dispensed on the original prescription in order to ensure that there is no confusion on the amount to be dispensed if the patient seeks to fill the remaining quantity of the prescription. These safeguards are critically important to meeting the goals of this Bill, which is to reduce the number of unused opioids in circulation.

More importantly, the State should seek to implement legislation that encourage medical professionals to carefully monitor the amount of controlled substances that they prescribe, rather than establish a process that allows for an individual to access the full 30-day prescription with no additional oversight by the prescriber after the partial fill is used. This Bill will encourage prescribers to prescribe a full 30-day supply, knowing that the patient can request that it partially

filled if they so choose; however, it places no additional barriers or medical oversight for a patient to access the remaining supply. Again, other State legislation has required that the pharmacist notify the prescribing practitioner of the quantity actually dispensed.

Lastly, the Bill fails to include a mechanism for health plans to be notified of the partial fill. Currently, insurance claim systems are set up to automatically deny claims for fills for less than a 30-day supply in order to prevent diversion, fraud, and abuse. Claims for partial fills would therefore be automatically denied, as plans would have no way to identify an improper claim from an appropriate partial fill. Indeed, even if plans were given advanced notice, plans would still have to manually review claims, devoting substantial resources to claim review and follow up calls to pharmacists to verify that the fill and cost-share amounts are correct. This will not only result in significant delays to pharmacy reimbursement, but also will greatly increase administrative costs and lead to higher premiums.

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

Respectfully submitted,

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Legislative Counsel for the Blue Cross and Blue Shield Plans

4820-8676-0113, v. 1