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April 19, 2021

RE: AN ACT to amend the education law, in relation to making technical changes to the scope of practice of podiatry

A2294 (Pretlow)  
S2019 (Jackson)

### **MEMORANDUM IN OPPOSITION**

Submitted on behalf of the Blue Cross and Blue Shield Plans

The Blue Cross and Blue Shield Plans of New York oppose enactment of this Bill, which contains a series of new and dangerous scope of practice expansions cloaked as “technical amendments” that pose significant health and safety concerns. In particular, the Bill would significantly alter the landmark podiatric scope of practice changes enacted in 2012.<sup>1</sup>

Among the most significant scope expansions include:

- The authority to diagnose, treat, operate, or prescribe for skin conditions of the ankle to just below the knee (Section 1);
- Eliminating the requirement that podiatrists learning to perform ankle/lower leg surgery on live patients be under direct supervision; (Section 3, paragraph 3); and,
- Removing the requirement that “wound care” treatment on the lower leg be “contiguous with” the foot (Section 1, paragraph 1).

In particular, the Bill’s expansion to cutaneous conditions is a *brand new* expansion that was nowhere mentioned in Chapter 438. Cutaneous conditions are essentially conditions of the skin, and with the scope permitting the diagnosis, treatment, operation, or prescribing for any skin condition “of the ankle to the distal tibial tuberosity” (the part of the leg which rests just below the knee) this one sentence would authorize podiatrists to treat such medically complex conditions as melanoma, diabetes, and peripheral vascular disease, among a host of other conditions which are reserved for medical experts with specialized skill and training. Conditions of the skin are much more likely to be systemic in nature and require complete medical understanding. Podiatrists are not specifically trained in the same manner as general physicians,

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<sup>1</sup> Chapter 438 of the Laws of 2012.

let alone dermatologists or orthopedists; nor are they trained to treat systemic or complicating secondary diagnosis problems. A patient's condition could go unnoticed, be improperly diagnosed, or exacerbated by improper treatment from the podiatrist. Similarly, amendments eliminating the need that wound care treatment be "contiguous with" wounds relating or originating from the foot is yet another attempt to stretch the scope expansion beyond agreed upon parameters less than one year ago, and into the realm of medicine beyond a podiatrist's expertise.

Equally problematic is that this Bill would remove the requirement that licensed podiatrists who are training to perform surgery on patients be directly supervised by either a licensed podiatrist trained to perform such surgical procedures, or another physician. This change essentially nullifies one of the most fundamental patient safeguards incorporated into Chapter 438, and would permit a podiatrist with *no* surgical training to perform surgical procedures on a patient without direct supervision. In fact, the Bill goes so far as to leave it to the discretion of a hospital surgery department chief to decide whether the podiatrist needs *any* supervision at all, meaning your "average" podiatrist could be allowed to operate anywhere from the ankle to below the knee on a patient *completely* unsupervised.

Further, in an attempt to expand the scope of podiatry into other disciplines of medicine, this Bill ignores the reality that there are significant differences in the training of physicians and podiatrists, and from a practical standpoint, in the credentialing process to be a participating provider with health plans. While physicians are subject to a strict credentialing process to be a participating provider, which ensures that patients receive safe, high quality care, professional certification in the field of podiatry is not a uniform system, and the various standards undermine a plan's ability to comprehensively credential podiatrists. Three different entities provide a path to certification, with some providing more than one pathway, with varying degrees of surgery training. For example, while podiatrists certified by the American Board of Podiatric Surgery may have extensive training in the areas which this bill addresses, this bill does not limit the scope of practice expansion to this particular certification.

In essence, this Bill undermines the careful balance of competing interests recently implemented. Permitting podiatrists to treat patients beyond the scope of their expertise exposes patients to unnecessary risks and increasing expense without a discernible benefit to New York's citizens.

For all the foregoing reasons, we oppose enactment of this legislation.

Respectfully submitted,

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