



121 STATE STREET  
ALBANY, NEW YORK 12207-1693  
TEL: 518-436-0751  
FAX: 518-436-4751

June 2, 2022

RE: AN ACT to amend the insurance law, in relation to requiring health insurers to provide coverage for diagnosis and treatment of fibroids

A.9054-B (Joyner)  
S.8549 (Persaud)

### **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 because it would subject women to treatments deemed unnecessary pursuant current evidence-based standards. Specifically, this bill would require insurers to cover all costs associated with the diagnosis and treatment of uterine fibroids and related conditions, whether or not supported by medical treatment standards. While the goal of the bill – presumably to ensure that women can access necessary health care – is laudable, in seeking to mandate coverage of unnecessary and experimental treatments, it will expose patients to needless surgical procedures and ultimately increase the costs borne by all enrollees. Further, as the bill does not restrict its coverage mandate to “essential health benefits” under the ACA, it would result in significant costs to the State.

Uterine fibroids are non-cancerous growths that frequently do not result in symptoms or lead to other health-related concerns. As noted in the Sponsor’s Memorandum of Support, when the presence of a fibroid causes a patient pain or yields other symptoms, insurers provide coverage of fibroid removal, hysterectomies, or other appropriate treatments. However, this bill seeks to mandate that such coverage is extended to surgical procedures and other treatments for fibroids and related conditions “including but not limited to pain, discomfort and infertility resulting therefrom” (emphasis added). Therefore, it would require coverage of procedures that are not medical necessary, are experimental or investigational, and for patients who are currently asymptomatic – contrary to prevailing medical opinion. For example, while the Mayo Clinic notes that many women have uterine fibroids sometime during their lives, medical care is only recommended if symptoms such as pelvic pain, heavy/prolonged/painful periods,

difficulty urinating, or unexplained anemia are present.<sup>1</sup> Similarly, Clinical Management Guidelines published by the American College of Obstetricians and Gynecologists (“ACOG”) provide that “expectant management” – or closely watching a patient’s condition but not rendering treatment unless symptoms appear or change – “should be the norm” for asymptomatic patients; and found there was “insufficient evidence to support hysterectomy” in such cases.<sup>2</sup>

Disturbingly, many physicians have failed to adopt these best practices and continue apply antiquated standards when treating women’s health issues. In fact, a 2015 study published in the *American Journal of Obstetrics and Gynecology* found that more than 400,000 hysterectomies are performed in the United States annually – 68 percent of which were done to treat benign conditions, including uterine fibroids.<sup>3</sup> The study found that nearly one-fifth of these hysterectomies were unsupported by pathology, and almost 40 percent of women were not offered alternative treatments prior to having an organ surgically excised.<sup>4</sup> As a result of these unwarranted procedures, nearly 80,000 women each year unnecessarily experience infertility, increased risks of osteoporosis, and other long-term side effects. Because Black women are three times more likely to have uterine fibroids – and African American females suffered post-operative complications following myomectomies (i.e. surgical removal of fibroids) at twice the rate of white women – such dated approaches disproportionately impact patients of color.<sup>5</sup> Nonetheless, the costs associated with these surgeries are passed along to enrollees via increased premiums and cost-sharing.

These studies highlight the importance of utilization review (“UR”) processes, which would be bypassed for women with fibroids if this bill were enacted. UR processes are highly regulated and designed to ensure receipt of the appropriate level of medical care in the appropriate setting and at the appropriate time – as determined by current evidence-based guidelines. Such safeguards help protect patients from unnecessary medical procedures and resultant costs. In fact, it is estimated that 21 percent of medical care provided in the United States is not supported by available medical literature, and results in over \$210 billion of excess spending annually across all specialties.<sup>6</sup>

Finally, since this bill does not restrict coverage mandates to screenings and procedures required under the Affordable Care Act (“ACA”), it would result in significant costs to the State. The ACA provides that, while states may require coverage of benefits in addition to essential health benefits,

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1 Mayo Clinic, “Uterine Fibroids: Symptoms and Causes,” available at <https://www.mayoclinic.org/diseases-conditions/uterine-fibroids/symptoms-causes/syc-20354288>.

2 American College of Obstetricians and Gynecologists, “ACOG Practice Bulletin: Alternatives to Hysterectomy in the Management of Leiomyomas,” August 2008 available at [https://www.mintir.com/page/pop\\_page1.pdf](https://www.mintir.com/page/pop_page1.pdf).

3 Honor Whiteman, *Medical News Today*, “Almost 1 in 5 hysterectomies are ‘unnecessary,’ study finds,” January 2015, available at <https://www.medicalnewstoday.com/articles/287736>.

4 *Id.*

5 Heba M. Eltoukhi, et al., *Am J Obstet Gynecol.*, “The Health Disparities of Uterine Fibroids for African American Women: A Public Health Issue,” March 2015, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3874080/>.

6 Heather Lyu, et. al, “Overtreatment in the United States,” Sept. 2017, available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0181970>.

a “State shall make payments (I) to an individual enrolled in a qualified health plan offered in such State; or (II) on behalf of an individual described in subclause (I) directly to the qualified health plan in which such individual is enrolled; to defray the cost of any additional benefits.”<sup>7</sup> Therefore, pursuant to this section, the State would be responsible for the cost of any such screenings and treatments to enrollees of individual and small group commercial insurance products.

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

Respectfully submitted,

HINMAN STRAUB ADVISORS, LLC  
Legislative Counsel for the Blue Cross and Blue Shield Plans

4888-7409-7954, v. 2

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<sup>7</sup> 42 USC §18031(d)(3)(b).