



PHARMACISTS SOCIETY OF THE STATE OF NEW YORK

TESTIMONY

**JOINT LEGISLATIVE BUDGET HEARING
HEALTH AND MEDICAID**

January 29th, 2020

**Steve Moore, PharmD, President
Deanna Ennello-Butler, Executive Director**

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Honorable Finance Chair Senator Krueger, Honorable Ways & Means Chair Assembly Member Weinstein, Senator Rivera, Assemblyman Gottfried and distinguished members of the legislature,

My name is Steve Moore and I am a licensed pharmacist and co-owner of an independent pharmacy in Plattsburgh, New York. I currently serve as President of the Pharmacists Society of the State of New York (PSSNY) and am here today with our Executive Director, Deanna Ennello-Butler.

PSSNY is a 140 year-old statewide organization with regional affiliates that represents the interests of more than 28,000 licensed pharmacists who practice in a variety of settings. Most of these pharmacists practice in community pharmacies and many of our members are independent owners who have made numerous trips to Albany over the last couple of years pleading for your help.

Thank you

It is important to recognize the support that the leaders and members of both houses have shown for the issues that PSSNY has brought to you in the past. Thank you for recognizing the value that local pharmacies bring to your communities and to our patients. Many of your constituents rely on pharmacists they know and trust for medications as well as the additional support and extra services we provide.

With that being said, we are here today calling on you yet again with an even greater sense of urgency. Just last year, the Senate passed the toughest PBM bill in the country 49-13, and the Assembly passed the same bill unanimously 147-0. States from around the country, many that have already instituted PBM reforms, looked to New York as the progressive leader our state is so often referred to. However, just 33 days ago, the bill was vetoed and New York remains far behind other states who have already taken on PBMs.

2020 Executive Budget Proposal

The Executive has proposed 4 Parts related to pharmacy in the health budget bill:

Part G: Prescription Drug Pricing & Accountability Board

Part H: Expansion of Assistance for Licensed Pharmacists

Part I: Pharmacy Audit Immunization Expansion and Collaborative Drug Therapy Management

Part U: Authorize the Regulation of Pharmacy Benefit Managers

Part G: Prescription Drug Pricing & Accountability Board

PSSNY would suggest the Legislature modify the Governor's proposal (Part G of S7507/A9506), to compliment strong PBM reform. While a laudable proposal on the surface, the proposed accountability board is only effective if coupled with strong PBM

legislation. Limiting the Board's ability to only investigate drugs which have increased by 100% is also consideration the Legislature should consider modifying. Additionally, without PBM licensure and regulation, the proposed board does little to combat the root cause of rising prescription drug costs.

Part: H Expansion of Assistance for Licensed Pharmacists

PSSNY would suggest the Legislature modify the Governor's proposal (Part H of S7507/A9506). Last year, New York State expanded the use of unlicensed persons and created a registered pharmacy technician class. In hospitals and Article 28 facilities, the ratio of pharmacists to unlicensed persons and registered pharmacy technicians was set at 4:1. The Governor now proposes expanding the ratio from 4 to 6. The proposal also clarifies that registered pharmacy technicians can perform additional duties under the supervision of a licensed pharmacist in all practice settings. We would respectfully suggest that the Legislature modify the Governor's proposal and keep the limit of 4:1 in all practice settings. PSSNY is concerned that 6-non-pharmacists under the supervision of a licensed pharmacist may compromise the ability of such individual to effectively ensure patient safety.

Part I: Pharmacy Audit Immunization Expansion and Collaborative Drug Therapy Management

PSSNY would suggest the Legislature support the Governor's proposal (Part I of S7507/A9506), after getting clarity on 2 questions. PSSNY supports authorizing the adult immunization of CDC approved immunizations.

PSSNY has also long supported the expansion of Collaborative Drug Therapy Management (CDTM) from a demonstration program to a regular program in New York State. The contact between pharmacists and patients occurs many times more often than visits to physicians and other healthcare providers. CDTM will offer patients greater care and coordination between all of their healthcare providers. However, there are some important questions which need to be addressed in the final legislative authorization:

- (1) Assuming a CDTM protocol for a community pharmacist, it is unclear that for a one year period how a community pharmacist can have a current protocol if it is currently not allowed.
- (2) What qualifies as 'documented *clinical* experiences in provision' of clinical services and who would set these standards?
- (3) It is stated that a pharmacist may engage in clinical services to gain experience to qualify to execute a CDTM under a pharmacist. If community pharmacists are not currently allowed to practice under CDTM how can this be facilitated? It is assumed that current CDTM protocols are inpatient/facility based not outpatient. Does the supervision need to be onsite or within the protocol? May a provider (MD, PA, NP) qualify for this supervision?
- (4) Who is the ultimate approver of the certification, State Board of Pharmacy or DOH? The reference is department in the law.

Part U: Authorize the Regulation of Pharmacy Benefit Managers

PSSNY would suggest the Legislature modify the Governor's proposal (Part U of S7507/A9506). The Executive proposal to regulate PBM's is a solid foundation for the direction New York State should take. However, many of the proposals and details in the Executive proposal would have already been written into law if the PBM bill passed by your houses had been signed by the Executive in 2019. In the 2020 proposal, PBMS are regulated by the Department of Financial Services ("DFS"), who would impose a regulatory "code of conduct." While PSSNY has consistently supported giving DFS the power to regulate PBMs, the Executive proposal places too much emphasis on the regulatory process, and not enough emphasis on regulation through Statute.

Additionally, and importantly, the effective date for the licensing requirement must be moved up from 2022, to June of this year. Waiting until January, 2022 to institute regulations on PBM conduct only gives these for-profit behemoths an additional 18 months to manipulate the system and wreak their havoc on patients, pharmacies, and taxpayers. PBM reform has been discussed by the Executive, DFS, the Senate and Assembly for a number of years. It should not, and need not, take 18 months to implement regulations which compliment the statutory reforms the Legislature puts in place.

Conclusion

PSSNY pledges to continue to work with members of the legislature, state agencies, administration officials and other stakeholders to develop and provide progressive policies that promote healthy communities in which local pharmacies thrive and pharmacists are rewarded for the important services they provide. Please help the pharmacists in the State of New York continue their commitment to patient care. Pharmacists are part of the solution to the problem of rising healthcare costs, as we are the most accessible healthcare providers capable of influencing outcomes.

Our members need relief from PBM abuse to remain viable and we need relief immediately.