Community Pharmacy Association of New York State

Focus of Community Pharmacy:

Access. Trust. Wellness.

Testimony for the

Joint Legislative Budget Hearing on Health/Medicaid

February 25, 2021

9:30AM

Virtual Hearing

Community Pharmacy Association of NYS

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The Community Pharmacy Association of New York State would like to thank you for your strong past support of community pharmacy in New York and for the opportunity to testify today related to the State Fiscal Year (SFY) 2021-22 State Budget.

The Community Pharmacy Association of New York State represents pharmacies of all types and sizes, and in every county across the State. Together, we are focused on protecting patient access to pharmacy care and strengthening the role that pharmacists can play as part of the health care team to improve patient health outcomes while reducing costs.

The State's pharmacists and pharmacies have played essential and expanded roles in the state's response to the COVID-19 pandemic. Pharmacies and their workforce have remained open and have served as a trusted access point for COVID-19 testing and COVID-19 vaccination, while continuing to ensure patient access to their medications and other pharmacy care. We look forward to continuing to serve our communities as we get through this devastating pandemic together and work to improve public health and access to care overall.

Today, we would like to comment on six Executive budget proposals as outlined below.

(1) REQUEST: Please Implement Carve Out of Pharmacy Benefits from Medicaid Managed Care April 1, 2021 Without Delay

New York State's pharmacists and community pharmacies strongly support the shift of the Medicaid pharmacy benefit from Medicaid Managed Care to Fee for Service effective April 1, 2021, as enacted in the SFY 2002-21 Final State Budget. While we are aware of pressure to delay the carve out, we respectfully urge that the state implement it as planned without delay.

Currently, there are 16 Managed Care plans that together with their PBMs manage the pharmacy benefit for 4.3 million individuals enrolled in NY Medicaid. This has resulted in varying and in some cases, limited networks for individuals to use for their pharmacy care. Not all patients have the ability to use their pharmacy of choice that might be closest to their home, or which they have a trusted relationship with. Managed care plans each have their own formularies, prior authorization rules and processes, which can lead to confusion, or worse limit access for patients to needed medications. The carve out will address these issues and provide a more patient centered, straightforward pharmacy benefit for all.

Further, community pharmacies in all parts of the state have been struggling with the current Managed Care Model for pharmacy benefits in Medicaid. Pharmacies have been precluded from serving patients that live in their neighborhoods and with whom they have relationships due to the limited pharmacy networks that plans and PBMs have constructed.

Pharmacies who are invited to join these networks must submit to "take it or leave it contracts" for below or at-cost payments in order to be included. This puts pharmacies in

a most untenable position of wanting to serve their communities but struggling to do so because they cannot cover their costs to buy and dispense medications. Under Medicaid Fee for Service, there is a sustainable reimbursement model to ensure that pharmacies can continue to serve our communities.

Finally, New York will be joining other states which have either already moved back to Fee for Service or are in the process of doing so like California. This shift ensures full transparency and visibility for the State into prescription drug costs, while generating significant (over a hundred millions dollars in savings annually) through greater leverage over drug prices and no longer having health plans and PBMs administer the benefit. For example, California estimates it will save $405 million annually when it implements its carve out also on April 1, 2021.

While we know there is consideration for assisting some 340B providers to mitigate financial hardship from the transition, including the Executive Budget proposal to reinvest carve out savings to these providers, we would ask that any changes be targeted to assisting them through funding or other means, not a delay or other wholesale changes affecting the entire transition. We believe the transition will be very positive overall for patients and for those who provide their pharmacy care. We would ask for your help to ensure that the carve out is implemented as planned on April 1, 2021.

(2) OPPOSE: Across the Board Medicaid Cuts

Last year on January 1, 2020, a 1% across-the-board Medicaid cut was enacted to providers including community pharmacies. In the final State Budget for SFY 2020-21, the cut was increased to 1.5%. At this point, the Executive Budget pursues another 1% cut absent sufficient federal funding to address the State's deficit.

We are very concerned by the continued imposition of across-the-board cuts to Medicaid services. Community pharmacies continue to struggle with just at or below cost reimbursement both with Medicaid and commercial plans. Further reductions are unsustainable and can impact those served as struggling pharmacies find themselves unable to remain open as a result. Instead, we can recommend other ways that pharmacists can improve outcomes and reduce costs by better managing medication and health needs of patients, including some proposals described below.

(3) SUPPORT: Pharmacist-Administered Immunizations (Part P of S.2507/A.3007)

Since 2008, pharmacists have had the ability to assist with providing immunization care in New York State. High rates of immunization are our best defense against vaccine-preventable disease and help avoid far costlier care for the treatment of these diseases and preventable death. It is in the best interest of the state and public health overall to ensure that patients have seamless access to vaccinations seven days a week including evenings and weekends.

Currently in New York, pharmacists are authorized to administer most, but not all CDC-recommended vaccines to adults (influenza, pneumococcal, meningococcal, tetanus,

diphtheria, pertussis, herpes zoster and most recently COVID-19 vaccinations), as well as the influenza vaccine to children. Such administration is pursuant to a patient- specific or standing order from a physician or nurse practitioners. Pharmacists currently cannot provide vaccines to prevent Hepatitis A & B, HPV, Varicella and MMR unnecessarily limiting access and leading to patient confusion and barriers to care.

The Executive Budget would address this by authorizing pharmacists to administer all CDC, Advisory Committee on Immunization Practices (ACIP)- approved vaccines for adults. This would enable pharmacists to serve those who may not have received vaccines to prevent HPV or MMR as a child or adolescent who may be interested in doing so as an adult (where recommended). Similarly, pharmacies serve individuals who may be at risk for Hepatitis A & B and can help increase vaccination rates to prevent these harmful diseases.

Over a decade of compelling data supports the ability of pharmacists to improve health by increasing access and opportunity for vaccine delivery. As evidenced by the ongoing COVID-19 pandemic, pharmacists are well positioned to expand on public health efforts to reduce preventable diseases given their clinical expertise and integration in communities across the state, but only to the degree that they are authorized by law. New York is currently the only state that does not allow pharmacists to administer hepatitis A and hepatitis B vaccinations, and New York is one of two states that do not allow pharmacists to administer MMR, varicella, and HPV vaccinations to adults.

We urge New York to join nearly all other states by allowing pharmacists to administer the all vaccines recommended by the CDC for adults and to make this law permanent, as proposed in the Executive Budget. This will protect New Yorkers from death and disability caused by all vaccine-preventable diseases. This will not only save lives but it will reduce healthcare costs.

(4) SUPPORT with MODIFICATION: CLIA-Waived Testing (Part P of S.2507/A.3007)

Under the current law, pharmacies can administer CLIA-waived tests under a Medical Director and have done so successfully in New York, and across the country. During the pandemic, licensed pharmacists have been given the authority by Executive Order to serve as Limited Service Lab (LSL) Directors and to order and administer COVID-19 and Influenza tests. In current law, LSL Directors can be physicians, dentists, podiatrists, physician assistants, special assistants, nurse practitioners, midwives, and optometrists with some limitations. CLIA-waived tests are defined as simple laboratory examinations and procedures that have an insignificant risk of an erroneous result.

Pharmacists were well prepared to order and administer COVID-19 testing, given their extensive training and expertise. Further, the very convenient locations and accessible hours of pharmacies has enabled them to quickly and very effectively provide such tests throughout their communities. New Yorkers have responded very positively to accessing these screening tests, like vaccines, through their local pharmacies.

The Executive Budget proposes to make this authority permanent for CLIA-waived tests. Like with COVID-19 and influenza testing, the Executive Budget proposal would enable pharmacists to make certain screening tests more accessible based on community need. However, clear communication of results with a patient's attending physicians and other healthcare provider(s) and established processes to ensure continuity of care are essential to be included.

(5) REQUEST FOR MODIFICATION: Collaborative Drug Therapy Management (CDTM) (Part P of S.2507/A.3007)

Since 2011, New York law has allowed for collaborative drug therapy management (CDTM) protocols between licensed physicians and licensed pharmacists in Article 28 facilities. This law has worked well with demonstrated improvements in patient outcomes and health care savings. This Executive Budget proposal makes the current CDTM law permanent and expands the settings where it may be utilized as well as the scope of such agreements to include nurse practitioners.

While we appreciate the intent of this proposal, we would support a model for collaborative practice agreements that is more community-based focusing on ambulatory patient needs, and to ensure communication and continuity of care among community providers, rather than expanding the current law in scope and to other settings. In particular, we support a Comprehensive Medication Management (CMM) model for collaboration between licensed physicians and licensed pharmacists for their patients with chronic diseases living in the community who could benefit from enhanced services to provide for better adherence and improved outcomes.

According to the American College of Clinical Pharmacy, 57% of medication therapy problems are the result of inadequate therapy. Including the reasons *dose too high* (6.83%) and *unnecessary therapy* (6.68%) brings the number to just over 70%. The primary reason these problems occur is that, after clinicians prescribe a medication, time paucity between subsequent visits or hospital episodes makes it difficult to review and optimize therapy on a continuous basis.[i] This is where New York is missing an opportunity to better utilize the skills and expertise of pharmacists to identify and address inadequate therapy. Pharmacists are specially trained in understanding and managing medications for patients and New York should enable them to do so as part of a patients' care team by authorizing CMM.

CMM will improve patient health and outcomes while also saving money. One report, *Get the Medications Right*, summarized the responses of 935 pharmacists and found a variety of positive outcomes and cost reduction results achieved by programs and organizations across the country. For instance, the study identified demonstrated reductions in hospital admissions and improvements in metrics related to chronic conditions such as asthma, diabetes and hypertension, and other illnesses, including schizophrenia. Cost savings reported by survey participants showed financial return on investments that ranged from 2.8-to-1 to 12-to-1. [ii]

For these reasons, we urge that the Executive Budget proposal be modified to authorize a more community focused collaborative model between licensed physicians and licensed pharmacists like Comprehensive Medication Management as would be authorized in legislation we support (S5296/A3849) from 2020.

(6) SUPPORT with MODIFICATION: Regulation of Pharmacy Benefit Managers (Part J of S.2507/A.3007)

The Executive Budget includes a proposal to regulate Pharmacy Benefit Managers (PBMs) through licensure and a series of other requirements. This includes provisions to:

- Require PBMs to be initially registered with the State Department of Financial Services (DFS) and follow minimum standards and code of conduct, established in regulation by DFS.
- On or after January 1, 2023, require PBMs to be licensed by DFS and follow standards and reporting requirements focused on conflicts of interest, deceptive practices, anti-competitive practices, prohibitions on payment models, unfair claims practices, pharmacy network standards and others protecting consumers, as set forth by DFS, in consultation with DOH, in regulation.
- Assess PBMs for the operating expenses of DFS solely attributable to regulating PBMs.
- States that fail to comply with such requirements could result in revocation of registrations or licenses.

We support the need to regulate PBMs in New York. They are currently the one entity in the healthcare continuum that is not regulated like pharmacies, wholesalers, manufacturers, hospitals, long term care facilities, health insurance plans/MCOs and other health providers. We believe the time is now to close that gap as other states have and ensure that the state has oversight over PBMs and that they must comply with state laws and are held to robust standards and a code of conduct in New York State. Patients and providers need these protections to end prevent unfair practices.

We would ask for your consideration to include one additional element in this proposal. Currently, PBMs limit the ability for patients to choose the best method to receive their needed medications. Many prohibit local community pharmacies from being able to deliver or mail prescriptions, limiting patient access and choice. During the COVID-19 pandemic, many pharmacies have been offering free delivery by in person courier or by mail to enable patients to remain in their homes and ensure medication access. We believe this should be permanently authorized by prohibiting PBMs from limiting this service in contracts.

We urge immediate action to regulate PBMs in New York State and the inclusion of an additional protection to allow for patient choice in how they receive their prescriptions including via delivery without PBM limitations.

Thank you for your consideration of our comments regarding the SFY 2022 budget. The goal of our members is to ensure patient access to high quality pharmacy care throughout the State. Please continue to see our Association and members as a resource on any medication or health-related topic where we can provide insights or assistance.

[i] Comprehensive Medication Management in Team-Based Care, American College of Clinical Pharmacy, https://www.accp.com/docs/positions/misc/CMM%20Brief.pdf as referenced in https://blog.cureatr.com/comprehensive-medication-management-standard-of-care

[ii] McInnis, T. Capps, K. Get the medications right: a nationwide snapshot of expert practices—Comprehensive medication management in ambulatory/community pharmacy. Health2 Resources, May 2016 as summarized in https://blog.cureatr.com/comprehensive-medication-management-standard-of-care