



December 5, 2019

Honorable Andrew M. Cuomo
Governor
New York State Capitol
Albany, NY 12224

Re: S6531 Breslin: To amend the public health law and to amend the insurance law in relation to pharmacy benefit managers

Dear Governor Cuomo:

We, the undersigned organizations representing patients and families, write in strong support for S6531. We applauded your budget proposals giving the Department of Financial Services (DFS) authority to regulate and license pharmacy benefit managers. And we appreciate the additional provisions in this bill requiring pharmacy benefit managers (PBM) to conduct business for the best interest primarily of covered individuals.

The legal requirement that the welfare of patients is the primary duty and obligation of any PBM aligns their responsibilities with those of every other state regulated entity in healthcare. This alignment is good news for patients as is legal standing if a PBM causes patient harm. Pharmacy benefit managers have an influential role in healthcare, to design and administer prescription drug benefits. Every element of the benefit design directly translates into how accessible medications are to patients who need them: Is the drug listed on the formulary? What is the out-of-pocket cost? Is prior authorization required? If so, how are decisions made, by whom and is there a way to appeal? Is mail the only option?

The text of the bill (your Executive Budget language) requires PBMs to eliminate conflicts of interest and deceptive, unfair and anti-competitive business practices in order to qualify for a NYS license. When these broad concepts are fleshed out in regulations, patients and

payers will benefit. One reason cited by drug manufacturers for high drug prices is PBMs' demand for rebate dollars. Consumers pay high prices if they have high deductible plans. High drug costs are always given as a reason for premium and co-pay increases, another burden for patients and their families. In addition, we see a clear conflict of interest between PBMs owning mail order and specialty pharmacies and simultaneously managing networks of pharmacies they don't own. Currently PBMs have no incentive to treat these pharmacies (their competitors) fairly. Also, when a PBM changes or shrinks a pharmacy network, it disrupts established care patterns, creating gaps in care that are costly to patients and to the system as a whole.

According to recent media reports, local pharmacies are struggling under abusive PBM business practices such as unfair contracts and payment policies. We are concerned that a recent analysis by the National Community Pharmacists Association found that between June, 2018 and June, 2019, 3.3% (2,000) of the nation's community pharmacies closed. More alarming, 58% of pharmacies that responded to the survey say they are likely to close in the next two years. (<http://www.ncpa.co/pdf/survey-health-cp.pdf>) New York has approximately 4,500 community pharmacies. Can the state afford to lose 2110 local employers? Tax revenues? What happens to patient who live in the state's 44 rural areas? The good news is that when S6531 is fully implemented, DFS will have statutory authority to investigate complaints and compel disclosures that should lead to greater cost transparency and more equitable business dealings.

It is well known that consumers place value on having direct access to pharmacists. Personal preferences aside, articles in peer-reviewed journals document that regular patient-pharmacist interactions produce measurable therapeutic results. According to a JAMA article published in April, pharmacy closures are linked to persistent, clinically significant declines in adherence to prescribed medications. (<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2730785>)

The bill right-sizes the role of PBMs as middlemen, provides protection for patients and payers, and gives state authorities the enforcement power necessary to implement the statutory language with meaningful results.

On behalf of New Yorkers relying on prescribed medications to maintain quality of life and independence, and in the interest of responsible management of prescription drug benefits, we wholeheartedly recommend enactment of this legislation into law.

Sincerely,

Aimed Alliance

John A. Wylam, Esq.

Alliance for Patient Access

Brian Kennedy, Executive Director

American Liver Foundation

Tom Nealon, President and CEO

Coalition of State Rheumatology Organizations

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Mental Health Association in New York State, Inc.

Glenn Liebman, Executive Director

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Hazel Dukes, President

National Alliance on Mental Illness - New York State

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National Multiple Sclerosis Society

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New York State Bleeding Disorders Coalition

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Northeast Kidney Foundation

Carol LaFleur, President

Patients Rising & Patients Rising Now

Terry Wilcox, Executive Director

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Molly Guthrie, Director, Public Policy and Advocacy

Cc: Senator Neil Breslin
Assemblyman Richard Gottfried
Senator Gustavo Rivera
Assemblyman Kevin Cahill
Senator James Skoufis