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MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: JUNE 15, 2017

Re: S.5022-A (Serino)/A.2317-A (Peoples-Stokes) – An act to amend the insurance law and the public health law, in relation to prescription drug formulary changes during a contract year.

This legislation would prohibit health insurance plans from making mid-year pharmacy formulary changes to account for drug safety or the increasing cost of some prescription drugs. If enacted, this proposal will result in higher health insurance premiums, and exacerbate the increasing cost of drugs − one of the fastest rising components of health care costs. More importantly, the bill will endanger consumers by continuing to expose them to drugs discovered to be unsafe or with serious side effects which has not yet been recalled by the federal Food and Drug Administration (FDA). Accordingly, the New York Health Plan Association (HPA) opposes S.5022-A/A.2317-A.

Increased utilization, price inflation and higher cost drugs continue to drive up prescription drug costs. Drug companies are pushing the limits on prescription drug prices across the board. Six-figure price tags on old and new drugs have become commonplace, specialty drugs and generic drugs see similar pricing jumps and prices for orphan drugs regularly reach above $300,000. To counter these increases and to keep prescription coverage affordable for consumers, health plans use comprehensive prescription drug formularies. A drug formulary is a continually updated list of prescription medications. Health plans use Pharmacy and Therapeutic Committees (P&T Committees), which represent the current clinical judgment of providers who are experts in the diagnosis and treatment of disease. Formularies have existed for decades and are commonly used by hospitals, health plans, prescription benefit management companies, self-insured employers, and government programs. The formulary provides enrollees access to effective drugs in every therapeutic class to ensure efficacious treatment. The formulary and review process of modification is intended to reduce the cost of member premiums, incentivize use of the most efficacious drugs, and insure patient safety. Medicare Part D formularies have an allowance for up to six formulary tiers which allow for greater flexibility in benefit design, and lessen the overall financial impact on the consumer. In New York we are limited to only three formulary tiers which results in less flexibility and when a drug is moved between tiers the direct out-of-pocket cost impact to the consumer can be significant.

The bill "locks-in" the formulary of covered drugs. It prevents the continuous review, update and change necessary to maximize premium affordability, safety and efficiency to benefit consumers. This legislation does not permit the P&T Committees to act on behalf of consumers by removing drugs that have been identified as unsafe or as having severe or damaging side effects. To prohibit a health plan from acting to protect its members by changing its formulary mid-year due to health and safety concerns is wrong.

For all these reasons, HPA opposes S.5022-A/A.2317-A.

The New York Health Plan Association represents 25 managed care health plans that provide comprehensive health care services to nearly 7 million New Yorkers.