



MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: JUNE 14, 2017

Re: S.5342 (Hannon)/A.7748 (Gottfried) – An act to amend the public health law, in relation to extending the authority of the commissioner of health to issue certificates of public advantage.

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This legislation, S.5342/A.7748, would extend the authority of the Department of Health (DOH) to issue Certificates of Public Advantage (COPA). The New York Health Plan Association (HPA) opposes this legislation because the DOH authority to issue COPAs has already expired, and that current antitrust rules are sufficient to foster legitimate health care provider collaborations.

The DOH's authority to issue COPAs expired December 31, 2016. The COPA process granted DOH authority to allow providers participating in New York's Delivery System Reform Incentive Payment (DSRIP) program to secure state action immunity under federal and state antitrust laws. This legislation would extend until 2020 the authority of DOH to issue COPAs.

HPA strongly believes that current antitrust laws in New York allow for collaborative arrangements that reduce health care costs and benefit consumers and businesses through efficient and coordinated care. There is no need to reinstitute DOH's authority to issues COPAs, and if COPAs are extended, there must be language added to protect consumers and businesses.

First, the COPA should not result in price increases that result from greater market power. Parties to the COPA agreement should be prohibited from exchanging price information, and the COPA should not result in increased costs to the community affected by the COPA. To the contrary, the COPA should be required to produce greater efficiencies that benefit the community. Also, this requirement should be enforced by requiring annual reporting to demonstrate that the COPA is not resulting in higher prices attributable to the COPA.

Second, the COPA should result in better quality and improved health outcomes. The issuance of a COPA must require the achievement of quality benchmarks. No COPA should be issued if it fails to contain costs and increase quality in the community.

For all these reasons, HPA opposes S.5342/A.7748.

The New York Health Plan Association represents 29 managed care health plans that provide comprehensive health care services to nearly 8 million New Yorkers.