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# MEMORANDUM IN OPPOSITION

**FOR IMMEDIATE RELEASE: FEBRUARY 5, 2019**

Re: S.2407 (Comrie)/A.679 (Niou) – AN ACT to amend the general business law, in relation to standing for persons affected by prohibited or unlawful business practices.

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The New York Health Plan Association (HPA), which represents 28 health plans that provide coverage to 8 million New Yorkers, is writing to oppose S.2407/A.679. The legislation would amend the general business law by expanding the definition of prohibited or unlawful business practices, create new legal rights under which individuals may seek damages, and increase the level of damages that an individual may seek. Measures already exist to address prohibited and unlawful business practices and expanding the ability to sue would lead to higher health care costs in response to the threat of litigation brought against health plans.

This legislation is overly broad. By removing the current statutory provision that it shall be a complete defense if an action complies with federal rules and regulations, S.2407/A.679 creates the potential for establishing state requirements that conflict with federal standards.

Health plans today are held accountable for compliance with a wide range of state and federal laws that protect consumers including standards related to internal and external appeals, quality assurance programs, utilization management activities, and the payment of claims. The state already has the authority to enforce these requirements through a number of means including civil monetary penalties and revocation of licensure for violations of state or federal requirements. Similarly, health plans that fail to live up to their contractual obligations for benefits coverage may be subject to civil lawsuits for breach of contract. Expanding the right to sue by allowing statutory damages of up to \$2,000 to be added to any actual damages is completely unnecessary and dangerous to the solvency of carriers and the affordability of health insurance.

This legislation adds on to an otherwise comprehensive state regulatory scheme that already exists and will drive up health care costs for employers and consumers at a time when the focus should be directed on measures to make health care more affordable. For all these reasons, we urge you to oppose S.2407/A.679.

*The New York Health Plan Association represents 28 managed care health plans that provide comprehensive health care services to more than 8 million New Yorkers.*