

MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: APRIL 30, 2019

Re: A.2393 (Gottfried) – AN ACT to amend the public health law, in relation to requirements for collective negotiations by health care providers with certain health benefit plans.

The New York Health Plan Association (HPA) opposes A.2393, which authorizes collective negotiations for certain health care providers. This proposal is anti-consumer as it will result in consumers and employers facing higher prices for health insurance coverage and make it more difficult for New York to attain universal coverage.

Historically, antitrust laws have effectively protected consumers from predatory price-fixing in a variety of industries including health care. Currently, these laws prohibit independent physicians from engaging in collective efforts to set prices for medical services. This has benefited patients by encouraging greater choice, higher quality products and services, and innovative approaches to health care delivery. Current law has been crucial to promoting competition and preventing local provider monopolies that would allow physicians to set unfair prices. This legislation would diminish competition to the detriment of premium payers and patients.

In 2011, the Federal Trade Commission (FTC) issued an opinion outlining numerous concerns with an earlier version of this proposal (S.3186-A/A.2474-A, letter attached), noting that “the underlying assumption of the legislation – that consumers would benefit from collective negotiations among providers – is fundamentally flawed.” It stated the bill would pose “substantial risk of consumer harm” as it “will likely raise prices and reduce access for health care services, without ensuring improved quality of care or other consumer benefits.”

Additional opposition to this legislation is widespread:

- ◆ The **FTC** issued a similar opinion in 2011 on legislation in Connecticut that would allow physicians to collectively bargain, concluding, “this legislation is likely to foster anticompetitive conduct that is inconsistent with federal antitrust law and policy, and that such conduct could work to the detriment of Connecticut health care consumers.”
- ◆ The **United States Department of Justice**, in conjunction with the **FTC**, issued a report in 2004 (*Improving Health Care: A Dose of Competition*) condemning provider collective bargain stating that such measures would “likely harm consumers by increasing costs without improving quality of care.”
- ◆ The **Center for Medical Consumers** opposes this measure because it raises concerns about giving “economic power back to health care providers who have a long history of behaviors motivated by self-interest rather than the public interest.”

Legislators’ interest to allow collective bargaining represents a substantial reversal of long-standing public policy of endorsing competitive approaches to health care. This legislation ignores:

- ◆ Current law allowing Independent Practice Associations of physicians to contract collectively.
- ◆ The current trend of physicians to create large multi-specialty physician groups, and the negotiating power that these large multi-specialty groups have in contracting with health plans.
- ◆ The Federal Affordable Care Act’s creation of the Accountable Care Organization model, which established a provider-health plan negotiated/capitated reimbursement based on the quality of care provided.

Despite claims to the contrary, this legislation is solely designed to increase physician compensation. At a time when NY should be protecting consumers, some legislators are seeking to increase costs thereby harming consumers. It seems illogical to direct limited resources to further compensate physicians who are widely recognized as one of the wealthiest professions in the nation.

HPA urges the legislature to focus on improving quality and affordability of health care, and to reject measures that foster price-fixing. A.2393 is bad medicine for all New Yorkers.

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