



MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: FEBRUARY 23, 2021

Re: A.4177 (Lavine) / S.2528 (Rivera) – An act to amend the public health and the insurance law, in relation to health care professional applications and terminations.

This legislation would create a new process at the termination of a contract between the physician provider and the health plan that could unilaterally extend the contract, and modifies the current process when a physician provider is terminated for cause under the contract. This proposal is unnecessary, will increase administrative costs with no clinical benefit, and is anti-consumer as it will not improve continuity of care. Accordingly, the New York Health Plan Association (HPA) opposes A.4177/S.2528.

Integrated health care networks are the foundation of health care plans. State law requires the Department of Health to review and approve the adequacy of plans' provider networks. Building a quality network requires considerable skill and a menu of incentives that encourage providers to join a network. Providing coverage through a network increases quality, enhances medical competency and encourages greater coordination and collaboration by providers. Networks also promote cost efficiencies, which help make health care more affordable and accessible.

Physicians and health plans enter into standard contracts to provide services to health plan members for a specified period of time at a specified reimbursement amount. The standard contract includes provisions that create due process for the physician when the health plan seeks to terminate the contract prior to expiration. Health plans seek to ensure that their members receive the highest quality care from its network, if a physician no longer meets those standards then, according to the contract, there is a process to terminate the contract early for cause. Examples of this can include cases where health plan members submit complaints regarding the physician or serious quality issues may be discovered that do not rise to the level of imminent harm to patient care or fraud.

A health plan looking to terminate a physician's contract early must provide notice that must give the reason for the early termination, and the physician has the right to request a hearing or review. This legislation seeks to significantly modify this process by requiring that all members of the review panel be the same specialty and that one of the panelists be chosen by the physician. This will cause significant barriers to convening a panel when there is limited availability for some specialties and result in health plans inability to terminate contracts early. These added administrative barriers will result in increased costs for health plans and offer no clinical benefit to the member, nor will they improve continuity of care.

The bill also eliminates the right of health plans to exercise the right of non-renewal. Currently, when the term of the contract expires, so does the relationship between the physician and the health plan. Both parties are free to renegotiate the contract or to walk away unencumbered. This legislation places an undue burden on health plans by requiring plans to provide notice and extend hearing rights at the expiration of the contract. Notice and hearings are appropriate for the early termination of the contract, but not when the contract has expired. This bill seeks to tip the scale in favor of the physician when the health plan seeks not to renew the contract.

For all these reasons, HPA opposes A.4177/S.2528.

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.