



41 State Street • Suite 900
Albany, NY 12207-1717
518.462.2293
Fax: 518.462.2150
www.nyhpa.org

MEMORANDUM IN

FOR IMMEDIATE RELEASE: JANUARY 29, 2021

Re: A.832 (Gottfried)/ S.3231 (Sanders) – AN ACT to amend the public health law and insurance law, in relation to certain contracts or agreements by health maintenance organizations

This legislation, A.832/S.3231, is anti-consumer and encourages off label prescriptions. Moreover, it is duplicative of existing law. Accordingly, the New York Health Plan Association (HPA) opposes this bill.

Subdivision 12 of this proposal promotes out-of-network referrals that will cause patients to incur additional and unnecessary out-of-pocket expenses for health care, but makes no requirement for providers to inform patients that they will be liable for those costs. This provision of the bill is decidedly anti-consumer.

Subdivision 13 prohibits disclosure of a patient's diagnosis on a prescription. However, plans may require this information for two purposes. In many cases, a diagnosis provided to a pharmacist permits collaborative therapy, where the pharmacist works with the prescriber to ensure that the appropriate medication is prescribed, thereby seeking to improve the quality of care the patient receives. In other cases the request is made to ensure the drug is not being utilized for off-label or cosmetic purposes (i.e., Retin-A). Disclosure of an enrollee's diagnosis is deemed appropriate under HIPAA. A flat prohibition on disclosure may require health plans to establish prior authorization processes for certain agents. This will result in a more cumbersome prescribing process requiring greater paper work and lost time for providers and patients alike.

Subdivision 14 of the bill unnecessarily requires the approval of prescribing providers for all pharmaceutical substitutions except for generic drugs. This duplicates New York's prescribing Dispense As Written laws that already require alterations in drug therapy may only be executed under the authority of the patient's provider. Pharmacists can be sanctioned if they are found to be "substituting without authorization" drugs specified in a prescription.

We believe A.832/S.3231 is unnecessary and, more importantly, anti-consumer and burdensome. For all these reasons, the New York Health Plan Association urges your opposition to this proposal.

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