Testimony

for the

Legislative Budget Hearing
2013-2014 Executive Budget
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Hearing Room B, LOB

Respectfully Submitted by:

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I want to thank the chairs and committee members for this opportunity to provide testimony on behalf of the Pharmacists Society of the State of New York.

NYS Medicaid Continued Cuts to Pharmacy Reimbursement

- The 2013-2014 NYS Budget contains another cut in pharmacy reimbursement as it relates to branded drugs for those enrolled in the Medicaid Fee for Service program. The cut moves the discount off of Average Wholesale Price from AWP-17% to AWP-17.6%. We were told by Medicaid officials that this 'initiative' was to balance the FFS program with Managed Care's average contract reimbursement. Once again, Medicaid uses fuzzy logic to initiate another cut to pharmacy. You cannot compare managed care reimbursements in the private sector to FFS reimbursement in Medicaid. In the private sector, you and I must pay our copays no matter what they are. In Medicaid, you cannot refuse service if the patient cannot afford the copay and this happens more than 80% of the time. With copays for brands being $3.50 and now the additional cut, non-payment of a copay could result in a pharmacy being reimbursed below the cost of dispensing the drug. In 2007, a national Cost of Dispensing survey was conducted and the cost to dispense a drug in NYS was $10.80 at that time. We expect that NYS Medicaid's recent Cost of Dispensing survey conducted in the fall of last year will show that has risen to around $15.00.
    - The average wholesale discount for a pharmacy purchasing a brand drug is AWP-19.6%. If Medicaid now takes AWP-17.6%, that leaves the pharmacy with a 2% GROSS margin. So, for a drug that costs $200 the pharmacy's discount (AWP-19.6%) would bring the acquisition cost down to $160.80. Medicaid reimbursing the pharmacy for that branded drug at AWP-17.6% would pay $164.80 or a $4.00 GROSS margin. From that $4.00, Medicaid would automatically deduct the $3.50 copay leaving a GROSS margin of $0.50. That's what a pharmacy in Medicaid would have left more then 80% of the time when the copay is not paid. Not the $4.00 that Medicaid assumes is paid.
    - In addition, Medicaid will be seeking a single vendor to provide incontinence supplies such as adult diapers. This was tried before and failed miserably. The prohibitive cost to ship these large boxes of adult diapers or pads and the fact that

they are routinely stolen from porches and hallways is well known. Interruptions or missed deliveries to those homebound and unable to travel to central locations to pick up their incontinence supplies will be very problematic. Having these supplies available locally either by stopping into your local pharmacy or having the pharmacy coordinate 'free' deliveries, is actually more cost effective. This also reduces 'auto-shipments' of products that can add up to an incredible waste of dollars if unused. This is not a good idea.

Specialty Drug Designations by Pharmacy Benefit Managers"

- Despite overwhelmingly passing legislation two years ago that 'prohibits' a health plan issued in NYS from mandating that patients get their maintenance medications through the mail or requiring patients to pay a higher co-pay if they select their local pharmacy, (NYS Insurance Law §3216 (i) (28) and NYS Social Services Law, Large Pharmacy Benefit Managers have simply called maintenance medications – ***"specialty drugs"*** as a way of undermining our laws and limiting a patient's choice to as little as a single out of state, wholly-owned PBM mail order pharmacy.
    - Specialty Drugs are a made up term by self-dealing Pharmacy Benefit Managers (PBMs) who are using this term that has **no definition in state or federal law**. The largest PBMs 'steer' patients from New York community-based pharmacies and force them to use their wholly-owned out-of-state mail order pharmacy simply by calling maintenance medications ***"Specialty Drugs."***
    - The potential for real harm to Medicaid and private-pay patients is just a missed delivery away and is already happening around the state. It also can potentially violate a patient's privacy if their medications are shipped to their home and perhaps seen by other persons not privy to the patient's medical condition.
    - New York's community-based pharmacies have been dispensing these same maintenance medications to their patients for years and even decades. Their patients trust their local pharmacist and most are extremely upset that they can no longer get their prescriptions filled at their pharmacy.
    - The potential loss of taxpayer dollars through Medicaid managed care to PBM wholly-owned, out-of-state pharmacies could reach a staggering $2 billion

annually. That's our tax dollars supporting jobs in Missouri, Texas, Arizona or Florida. This, despite the no mandatory mail order restriction in the Social Services law.

- The fact that one of the largest PBMs in the country would send a letter to our attorneys, as it relates to a NYS Court 'Stay' against creation of a Medicaid Managed Care 'excluded drug' network, and telling us that they and the subsidiaries are NOT regulated by NYS Insurance or Social Services regulations is very telling. These large unregulated PBMs feel that they are too big to be troubled by our state's laws. PBM arrogance has reached a new high and they need to be reigned in to protect New York's consumers of prescription drugs.

"Pharmacy Benefit Manager (PBM) Transparency" - PSSNY strongly encourages the Legislature to ***require*** a robust PBM Transparency law across ***ALL*** health insurance programs in NYS and not just for the new State Insurance Exchanges as require under federal ACA law. This remains unresolved and we know that in the private sector many self-funded employers, unions trust funds, schools, hospitals and local governments are being taken advantage of by large PBM bad behavior. (Simvastatin example)

- PBM transparency legislation is critical in pulling back the veil of secrecy that is a significant part of PBM business practices.
- PBM self-dealing is rampant nationwide as they "steer" patients" from their competitors to their wholly-owned mail order facilities.
- PSSNY is calling for the immediate passage of legislation that would require PBMs to register with the state of New York and to provide critical information to payers of prescription drugs that will allow them to make informed decisions. Information that the PBMs now call proprietary. There is nothing proprietary about what a pharmacy gets paid for a drug that theayer pays f
- The business practices of PBMs are not regulated in New York State and this absence of regulation has led to hundreds of millions of dollars in ***'hidden revenues'*** for large, non-transparent PBMs at the expense of all New Yorkers who pay for prescription drug services.

"Expanding Vaccines that Pharmacists Can Provide"

- ***"Pharmacists as Immunizers Expansion"***
    - Expanding the number of immunizations that pharmacists are authorized to provide makes good public heath sense and will greatly expand access to these necessary vaccines and with that reduce vaccine preventable diseases.
    - Currently, the Legislature has authorized pharmacists to provide flu and pneumococcal vaccines and added Herpes Zoster last session. Pharmacies are well positioned to provide all adult dose vaccines and have proved on multiple occasions just how important pharmacists as immunizers are during an outbreak crisis such as the H1N1 flu scare and the more recent Flu epidemic. We wish to thank Governor Cuomo for issuing an Emergency Executive Order authorizing pharmacists to administer flu vaccine to those under the age of 18. This demonstrates that pharmacists are capably trained to give ALL adult dose vaccines and flu vaccines for children.
    - New York was the second to last state to authorize pharmacists as immunizers in 2008. Today, we have over 8,600 trained and NYS Board of Pharmacy certified Pharmacist Immunizers located in communities across the state. New York is well positioned in the event of any future pandemic outbreak.

"Expanding the Role of the Pharmacist in Evolving Health Care Models"

- Pharmacists need to be recognized in the evolving health care models of better patient care such as Medical Homes. Giving pharmacists access to the BNE's Medication Monitoring Program is a step in the right direction. Physicians diagnose and initiate therapy plans for their patients, and pharmacists, as part of the clinical team, should be allowed to collaborate with physicians beyond just Teaching Hospitals. This will assure that those patients using chronic maintenance medications are adherent to their drug therapies for better health outcomes. This will be critical with the launch of the State Insurance Exchanges as many as a million and half more New Yorkers may have health care coverage. We are facing a crisis of opposites with the number of General Practitioners shrinking by 30% through 2020 and those over 65 increasing by 60%. Pharmacist are uniquely trained to 'manage' a patient's chronic disease thus freeing up

physician's to focus on what they do best. Diagnosing and Initiating treatment. By keeping patients adherent and healthier, all clinicians in the patient's medical home will benefit from higher reimbursement incentives. The new ACA model is about prevention and not conducting business as usual in the health care world. Creative ideas that keep patients healthier and out of Long Term Care will be rewarded.