

Chain Pharmacy in New York State

Pharmacies:

The face of neighborhood healthcare.

**Testimony for the
Joint Legislative Budget Hearing on Health/Medicaid**

February 12, 2018

10:00AM

Hearing Room B

Chain Pharmacy Association of NYS

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Honorable Chairwomen Young and Weinstein, Senator Hannon, Assembly Member Gottfried and other distinguished members of the Committee, my name is Mike Duteau. I am a pharmacist, Vice President of Business Development and Strategic Relations at Kinney Drugs and President of the Chain Pharmacy Association of New York State. We would like to thank you for your strong past support of community pharmacy in New York and for the opportunity to testify today related to the State Fiscal Year (SFY) 2018-19 State Budget.

The Chain Pharmacy Association of New York State and our member companies across the State are focused on protecting patient access to pharmacy care and strengthening the role that pharmacists can play in improving patient health outcomes while reducing costs. In this regard, we would like to comment on five specific proposals in the Executive Budget as outlined below.

(1) OPPOSE: Proposal to Impose a Surcharge on Opioids to be Paid by the Establishment Making First Sale of the Drug in the State (Part CC of S.7509 / A.9509)

- The SFY 2018-19 Executive Budget includes a proposal to impose a 2 cent per morphine milligram equivalent (MME) surcharge (excise tax) on all opioids sold in New York. The tax is estimated to generate \$125 million in the 2019 Fiscal year based on the expectation that the State would successfully tax 20-25% of the opioid market.
- We fully support efforts to prevent opioid addiction and the devastation it can cause to individuals, families and communities. We agree that much more must be done to discourage inappropriate opioid use, prevent excess supplies and create more accessible and effective treatment programs across our State. However, upon close review and consideration of this proposal we firmly believe that the surcharge as currently proposed will not reduce or discourage opioid use. Further, the tax may rarely be paid by manufacturers, as proponents have stated.
- Instead, the proposal states that the tax will be paid by the “establishment” making the “first sale in the state.” This goes beyond manufacturers because establishment as defined in the proposal is a manufacturer, wholesaler or pharmacy as registered under 6808 and 6808-b of education law. Under many scenarios the pharmacy could be the entity making the first sale in the state. When asked, the Executive admitted that it could apply to pharmacies with out-of-state distribution centers or to those “making the first sale in the State” when they dispense the drug to the patient based on their distribution system. **It is patently unfair for pharmacies to be placed in this position.**
- The pharmacy is not a price setter by any means. Pharmacies merely pay the price for the drug charged to them by the wholesaler/manufacturer so they can stock the drug and then hope that what they will be reimbursed for the drug by the payer is enough to cover their costs. Pharmacies also cannot control what is prescribed. When they receive a legitimate prescription they fill it.
- Importantly, this tax could impact legitimate patient access (individuals with cancer or other acute pain, in hospice, or those with serious injuries like veterans) to these drugs if pharmacies are forced to pay a tax each time a drug in this class is dispensed. Further

with pharmacies often being paid at “below cost” reimbursement, this tax would only add insult to injury and could force some pharmacies to make service reductions or close. While 2 cents per MME may not sound like much, it would be significant.

- Pharmacies would like to continue to partner with the State and local communities to reduce inappropriate use of opioids and help direct patients to needed prevention and treatment efforts. However, a significant tax placed on pharmacies and patients is unfair and misdirected. For these reasons, we would ask that this proposal as written be rejected or amended in the final State Budget so pharmacies would not be put in the untenable position of paying this tax.

(2) SUPPORT: Proposal to Adjust Pharmacy Dispensing Fees (Part D of S.7507/ A.9507)

- The Chain Pharmacy Association of New York State supports the Executive Budget proposal to increase pharmacy dispensing fees by 8 cents to \$10.08 per prescription under Medicaid fee for service (FFS).
- As we discussed last year, the major shift to pay pharmacies at or below ingredient cost using a national survey (NADAC) makes it critical for pharmacies to be adequately paid for the real costs to dispense prescriptions and generally to “keep the lights on” in the pharmacy. While we would argue that based on recent, New York-specific surveys the dispensing fee should be higher than \$10.08, we are glad to see that the fee is being revisited in the budget and on an upward trend.
- We would ask the Legislature to continue to consider ways to more appropriately and adequately reimburse pharmacies through future adjustments to pharmacy dispensing fees.

(3) SUPPORT: Proposal to Create a Program for Improved Management of Medications for Patients with Chronic Diseases (Part D of S.7507/ A.9507)

- We support the Executive Budget proposal to create a program for patients with a chronic disease(s) who have not met clinical goals, are at risk for hospitalization, or are otherwise deemed in need of greater medication adherence services to be referred by a physician or nurse practitioner (NP) to a qualified pharmacist to provide comprehensive medication management services, pursuant to a written service protocol with the physician or NP. Participation by patients and the providers would be voluntary and having integrated medical records between the pharmacist and physician or NP for the patient would be required to ensure integration and real-time communication.
- It is estimated that the cost of avoidable medical spending for drug-related problems in the ambulatory setting totals nearly half a trillion per year and contributes to as many as 1.1 million deaths annually in this country. Drug-related problems include untreated conditions, improper drug selection, sub-therapeutic dosage, failure to receive prescribed drugs, over dosage, adverse drug events, drug interactions and drug use without indication. The IMS Institute estimates that savings from appropriate medication use

could actually cover most of the \$374 billion (2014) spent on medications annually. More importantly, appropriate use will save lives and improve health.

- More than two-thirds of the states in this country allow community pharmacists to have written agreements/protocols with medical practitioners that authorize them to provide services similar to what is being proposed through this program.
- New York currently allows pharmacists employed by or affiliated with hospitals and certain nursing homes (with on-site pharmacies) to enter into collaborative practice agreements with physicians. This is not currently allowed for community pharmacists.
- Importantly, this proposal is more limited in scope than the hospital program. This proposal authorizes a patient specific protocol and the patient would be specifically referred by their health care provider. Also this proposal is limited to those patients with a chronic condition(s). Finally, the qualification requirements in this proposal are more specific to the services pharmacists would be providing in the community setting for a less complex, low acuity patient population, as compared to those in the inpatient setting.
- We urge your support for maintaining this proposal in the final budget.

(4) OPPOSE: Proposal to Increase Copays for OTCs (Part D of S.7507/ A.9507)

- The Executive Budget proposes to increase Medicaid FFS co-pays on over the counter (OTC) products from 50 cents to \$1 to save Medicaid \$2.3 million gross on an annual basis.
- In the interest of ensuring patient access to needed medications, we are concerned that any increased in Medicaid copayments can be difficult for patients to afford. Some may forego OTC products if this increase is put in place.
- Further, patients enrolled in Medicaid have the ability to refuse to pay copayments. Our members do report the nonpayment of copays and in some cases, high rates of such. As a result, community pharmacy would be bearing these additional costs further reducing pharmacy reimbursement which can be just at or even below actual costs.
- We urge you to reject this proposal in the final budget.

(5) OPPOSE: Proposal to Reduce OTC Coverage (Part D of S.7507/ A.9507)

- The Executive Budget includes a proposal to reduce Medicaid coverage of certain OTCs. When we asked the Health Department we were told that the list would include cough and cold medicines, some multivitamins and some digestive agents. This proposal would save Medicaid \$12.7 million gross, fully annualized.
- We are concerned that if Medicaid no longer covers these OTC products, patients may be unable to afford to purchase them. As a result, this could jeopardize patient access to needed medications and ultimately their health.
- We urge you to reject this proposal in the final budget.