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Legislative Report and Update
May 14, 2014

1. AMMO Reform A5723-B Heastie/S3995-B Maziarz
Assembly: Will be debated on the floor next week
Working on a document that refutes points made in opposition memos with materials provided by NCPA.
See attached sign-on letter that lists 38 individuals and groups in support.

Senate: Will meet again with Senator Skelos and central staff with document refuting opposition arguments.
Following up with individual senators from lobby meetings

Second floor: Documents are being drafted for Governor's counsel, Mylan Denerstein
2. Generic Fair Pricing Bill/MAC Appeals A9264 Rosenthal/S7025 Hannon
See talking points document with examples.
Assembly: Working on getting the bill on Health Committee agenda. As directed by MA Gottfried, checking with MA Raia and MA Cahill.
Following up on lobby day visits and working to secure additional sponsors.

Senate: Senator Golden is very engaged. Good feedback from lobby day.
3. Immunizer Expansion and Reform A9211 Paulin and S5688 Hannon
Additional support from AARP, NYCDOH, NYSDOH, NYSACHO
4. CDTM A7521-A McDonald amendments are now being finalized
SED Report to the Legislature released this week.
We have a close working relationship with Assemblyman McDonald.
5. Technician registration
Please see attached talking points in support of registration and regulations that govern "unlicensed persons assisting the pharmacist" in the 2:1 ratio
A4221-A Englebright/S6398 Griffo (registration followed by certification)
6. Sale of methamphetamine precursors NPLEx bill S4652-A Valesky/A1359-B Cymbrowitz. National real-time POS system strongly supported by law enforcement. Will pass senate. Similar bill has passed in many other states. Promoted by Consumer Product Safety Association. On behalf of PSSNY, have

requested clarification in bill language that the system is optional, not mandatory. Software is free but pharmacies must pay for internet.

7. Patient consent for delivery A8612 McDonald/S6449 Hannon
On Assembly calendar
8. Dispense opioid antagonists under non-patient specific order (Narcan) A8637-B Dinowitz/S6477-B Hannon. Passed both houses.

Additional Issues and Notes

NYSHIP. Actively working with Civil Service and Governor's Office to resolve reimbursement issues in near term and to continue dialogue on broader issues relative to PBMs.

Mandatory E-Prescribing takes effect March 27, 2015.

Met with BNE Director with PSSNY Academy of Long Term Care.

Software must be DEA-certified and registered with DOH.

Rxs written on NYS official blanks will still be legal in certain cases. Pharmacies are expected to fill these. Responsibility for e-Rxs rests with prescribers.

Many unresolved issues in Medicaid:

“Comparable” pricing

“Specialty” medications

15-day supply policies from PBMs/managed care

Prescriptions written by residents to be submitted with the NPI of the attending physician as “ordering provider”

Implementing new budget language re AAC

Generic Fair Pricing/MAC Appeals
A9264 Rosenthal/S7025 Hannon

- Amends public health law to define PBMs and to require PBMs to have an appeals process that network pharmacies can use to challenge below-cost payments for generic drugs.
- Requires PBMs to
 1. Make the MAC list accessible by pharmacies in their network
 2. Divulge the sources used to determine MAC rates
 3. Notify pharmacies no longer than 7 days from any changes in the sources or methodology used to determine MAC
 4. Provide weekly updates to any changes made to the MAC list
 5. Provide a phone number of the individual responsible for processing appeals at the PBM
 6. Respond to an appeal within seven business days of receiving it
 7. Make an adjustment to the MAC retroactive to the date when the claim was adjudicated
 8. If an update to the MAC is warranted, it must be effective for all network pharmacies that are similarly situated
- Limits products on MAC lists to generics that
 1. Are available at or below MAC price from NYS wholesalers
 2. Have more than 3 manufacturers
 3. Are AB-rated by the FDA

Pharmacies have the right to appeal for 90 days after submitting the claim for payment

Evidence supporting the need for MAC reform

1. **Survey conducted Nov-Dec 2013 by NCPA:**
www.ncpanet.org/index.php/news-releases/1848-pharmacists-report-soaring-generic-drug-purchasing-prices-impacting-patients-pharmacies

Clomipramine 25mg capsule pharmacy cost was \$463.12 for 60 caps. Reimbursement was \$18.43. “had to fill because of continuation of therapy.” Needed by mentally handicapped adults for behavior control. Another pharmacy reported loss of \$2,000 on one Rx.

Cost of morphine went from \$40 (60) to \$150 overnight. First adjustment was \$55 and months later went to \$133.

Cost of Pravastatin increased over 300% six months ago. Reimbursement was never adjusted.

Albuterol 4mg cost \$221.55. Payment was \$14.73.

2. **Survey conducted Sept. 2012 by NCPA: www.ncpanet.org/index.php/news-releases/1470-survey-pharmacists-say-patient-dare-undermined-by-auditing-payment-practices%20**

Ninety-six percent of pharmacies reported that a typical PBM contract has minimal or no transparency on how generic pricing is determined.

Almost 50% of respondents said that more than 10 percent of the time, PBMs set MAC reimbursement below pharmacy's cost for the drug.

Most common MAC limits below cost were for:

Budesonide (for asthma)

Atorvastatin (for cholesterol control)

Clarithromycin (antibiotic)

Fentanyl patches (pain)

Hydrocodone (pain, inflammation)

Methylprednisolone (steroid for allergic reactions, breathing disorders, skin conditions)

3. **Survey conducted August, 2011 by NCPA: www.ncpanet.org/index.php/news-releases/1062-new-survey-reveals-pharmacists-are-increasingly-struggling-to-care-for-patients-amid-predatory-audits-unfair-reimbursement-practices**

Community pharmacies must sign "blind", take-it-or-leave-it contracts with large PBMs to maintain access to patients. Nearly all (91%) community pharmacies report receiving little or no information justifying how PBMs arrive at reimbursement rates for generic drugs and how often the prices will be updated to reflect a pharmacy's cost.

71% of pharmacists tried to use the PBMs appeals process when they believed that the MACs did not reflect the pharmacy's costs. Many pharmacists noted that MAC-based reimbursement can take months to increase after drug costs spike and is virtually never done retroactively, but is reduced immediately when prices go down.

Pharmacy Technician Registration

Support for amendments to Section 6805 of education law to require any person seeking to be employed by a pharmacy technician to be registered with the NYS Education Dept.

Support for Section 1, 1a-1e of A4221-A Englebright/S6398 Griffo

Requirements for registration according to Section 1, 1a – 1e of A4221-A and S6398

- File an application with SED
- High School diploma or GED
- Eighteen years or older
- Good moral character (no felony or drug related convictions)

“Pharmacy Technician” in current law

Currently, the term “pharmacy technician” does not exist in NYS law.

Law does not allow an “unlicensed person” to practice a licensed profession.

Regents Rules, Part 29.7 (a) (21) (i) allows an “unlicensed person” to assist a pharmacist in dispensing of drugs and specifies the tasks that are allowed and are not allowed. (see attachment).

Regents Rules, Part 29.7 (a) (21) (ii) limits to 2 the number of “unlicensed persons” who can assist the pharmacists.

Compelling reasons to enact mandatory registration this year

- **Establishes the first-ever state data base of pharmacists’ assistants**
- **Clarifies which pharmacy personnel are working within the 2:1 ratio during pharmacy inspections. Helps enforce current ratio**
- **Creates new legal requirement for criminal background checks**
- **No current SED jurisdiction over unlicensed persons assisting pharmacists**
- **Public protection: registration can be granted and rescinded**
- **Extra protection for pharmacies in hiring staff (must be SED registered)**
- **Will prevent internal theft and diversion**
- **Enhances HIPAA compliance and protection of patient data**

Regents Rules: “Unlicensed persons assisting pharmacists” may:

- Receive written or electronically transmitted prescriptions, provided that the pharmacist or pharmacy intern shall review the prescription to determine whether in his or her professional judgment it shall be accepted by the pharmacy, and if accepted, the pharmacist or pharmacy intern shall enter his or her initials into the records of the pharmacy;
- Type prescription labels;
- Key prescription data for entry into a computer-generated file or retrieve prescription data from the file, provided that such computer-generated file shall provide for verification of all information needed to fill the prescription by a pharmacist prior to the dispensing of the prescription, meaning that the pharmacist shall review and approve such information and enter his or her initials or other personal identifier into the record-keeping system prior to the dispensing of the prescription or of the prescription refill;
- Get drugs from stock and return them to stock;
- Get prescription files and other records from storage and locate prescriptions;
- Count dosage units of drugs;
- Place dosage units of drugs in appropriate containers;
- Prepare records of dispensing for the signature or initials of the pharmacist; or
- Handle or deliver completed prescriptions to the patient or the person authorized to act on behalf of the patient, advise the patient or designee of the patient of the availability of counseling to be conducted by the pharmacist or intern.

Regents Rules: “Unlicensed persons” may not:

- ✓ Receive oral prescriptions from prescribers;
- ✓ Interpret and evaluate a prescription for conformance with legal requirements, authenticity, accuracy and interaction with other prescribed or OTCs;
- ✓ Determine therapeutic equivalency as may apply to generic substitution;
- ✓ Measure, weigh, compound or mix ingredients;
- ✓ Sign or initial any record of dispensing that is legally required;
- ✓ Counsel patients; or
- ✓ Perform any other function involving the exercise of professional judgment.

No drug which is dispensed with the assistance of an unlicensed person shall be dispensed without the review and approval of the pharmacist.



Action Alert!

Consumers, not the insurance industry, should be able to choose whether to fill their prescriptions by mail or at their local pharmacy.

New Yorkers facing life threatening and chronic conditions, including cancer, hepatitis, HIV, multiple sclerosis, rheumatoid arthritis, hemophilia and many others, are being forced by the health insurance industry to use mail order pharmacies for their specialty medications.

The health and privacy of New Yorkers across the state is being compromised.

- Many experience dangerous delays in starting or continuing their prescription drug regimens.
- If the medication is lost in the mail or stolen, they have to pay the full cost of the refill.
- Medications that require refrigeration are left to spoil at the door.
- They can not access prescription drug counseling from a trusted, local pharmacist.
- Neighbors find out about HIV status and other private medical information.

Please take action today to stop this dangerous practice!

1. Call or visit your State Senator and Assembly Member.
2. Call the Governor: 518-474-8390
3. Tell your story

Ask them to support the Anti-Mandatory Mail Order Pharmacy Bill (A5723B/S3995B), which ensures that New Yorkers have the option to access their medications from a pharmacy and are not forced into mandatory mail order.

You can find the contact information for your Assembly Member or Senator here:

<http://www.nysenate.gov/senators>

<http://assembly.state.ny.us/mem/?sh=search>

Please contact the Governor and your representatives today!

More information about how to tell your story is on the back of this page.

For more information contact Lyndel Urbano: LyndelU@GMHC.org, 212-367-1456

How to Tell Your Story

If you are being forced to use a mail order pharmacy, write about your experience and send it to your representatives. Your story should answer the following questions:

1. What is the problem that I want to address?

For example: "I'm being forced by my health insurance company to get my medications using its mail order pharmacy."

2. How am I connected to the issue?

For example: "I'm recovering from Cancer and need to take my medication every day to stay healthy."

3. Why should the legislator care?

For example, "Because of problems getting my medications through the mail, I have missed doses or had to pay out of pocket for replacements."

4. What do you want them to do?

For example, "Support the Anti-Mandatory Mail Order Pharmacy Bill (A5723B/S3995B), which ensures that New Yorkers have the option to access their medications from a pharmacy and are not forced into mandatory mail order."

If you're willing to let us use your story, please send it to:

Lyndel Urbano
446 West 33rd Street
New York, NY 10001-2601
LyndelU@GMHC.org

For more information contact Lyndel Urbano: LyndelU@GMHC.org, 212-367-1456

Organizational Sign on Letter Urging the State Legislature to Pass and the Governor to Sign A.5723B/S.3995B

Respond to: Lyndel Urbano, Manager of Government Affairs, GMHC 446 W 33rd Street, New York, NY 10001
Email: lyndelu@gmhc.org Phone: 212-367-1456

May 12, 2014

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Honorable Jeff Klein
New York State Senate Majority Co-Leader
Legislative Office Building, Room 913
Albany, NY 12247

Honorable Dean Skelos
New York State Senate Majority Co-Leader
Legislative Office Building, Room 909
Albany, NY 12247

Honorable Sheldon Silver
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, NY 12247

Dear Governor Cuomo, Senate Majority Co-Leaders Skelos and Klein, and Speaker Silver:

The undersigned organizations and coalitions from across New York State request that the you pass and sign A.5723B (Heastie)/S.3995B (Maziarz). This bill closes a loophole in state insurance law that allows the health insurance industry to force New Yorkers with private insurance to only use mail-order pharmacies to fill their prescriptions. As a result, consumers with life-threatening and chronic conditions face dangerous barriers to their health and privacy. They also lose their relationship with New York State-licensed pharmacists, whose business is being outsourced to out-of-state, wholly owned subsidiaries of the insurance companies.

We continue to hear from consumers that they are being forced to use mail-order pharmacies for medications deemed “specialty drugs” by the insurance companies. These include medications for Cancer, HIV, mental health conditions, Multiple Sclerosis, organ recipients, Hepatitis, infertility, Hemophilia, Lupus, Psoriasis, Rheumatoid Arthritis, and many others.

As a result, consumers cannot access prescription drug counseling from trusted, local pharmacists. They experience unreasonable and dangerous delays in receiving their medication, which can interrupt drug regimens. If their medication is lost in the mail or stolen, they are forced to pay the full cost for replacements. Medications that require refrigeration are left to spoil at the front door. Information about sensitive medical conditions, including HIV status, is disclosed to family members or neighbors who receive medications in error.

When consumers are forced to use mail-order pharmacies, business is stripped away from community pharmacies. This deprives consumers of the personal service and culturally competent expertise of a New York State-licensed pharmacist. Community pharmacists develop relationships with local residents and know their medical histories, which is among the reasons why they help with medication adherence and the prevention of dangerous drug interactions.

Consumers, not the insurance companies, should choose whether to receive medications by mail or from a local pharmacy. We respectfully urge you to take action now to protect the health of New Yorkers by passing and signing A.5723B (Heastie)/S.3995B (Maziarz).

Sincerely,
(In Alphabetical Order)

Access to Independence of Cortland County, Inc.
ACRIA
ACT UP
BOOM!Health
Coalition for Asian American Children & Families
Commission on Public Health Systems
Diaspora Community Services
Empire State Pride Agenda
Gay Men's Health Crisis (GMHC)
Harlem United
Health Care for All New York (HCFANY)
Hemophilia Association of New York, Inc. (serving the 14 downstate counties of NY)
Hispanic Federation
Latino Commission on AIDS
Long Island Minority AIDS Coalition
Lupus Alliance of Long Island/Queens
Lupus Alliance of Upstate New York
Lupus Foundation of Genesee Valley NY, Inc.
Lupus Foundation of Mid and Northern New York, Inc.
Lupus Foundation of Southern NY
Metro New York Health Care for All Campaign
New York Association on Independent Living
New York City Council Member Daniel Dromm, 25th District
New York Multiple Sclerosis Coalition Action Network
New York State Bleeding Disorder Coalition
New Yorkers for Accessible Health Coverage (NYFAHC)
NYC Hep B Coalition
NYC Hep C Task Force
Pharmacist Society of the State of New York
Resource Center for Accessible Living, Inc. (RCAL)
S.L.E. Lupus Foundation
Services and Advocacy for GLBT Elders (SAGE)
Southern Tier Independence Center
The Finger Lakes Independence Center
The Lesbian, Gay, Bisexual & Transgender Community Center
The New York Immigration Coalition
Treatment Action Group
US Pain Foundation