Pharmacists Society of the State of New York  
Chain Pharmacy Association of New York State  
NYS Chapter, American Society of Consultant Pharmacists

Memorandum in Support  
A6194 Joyner/S2530 Golden

An Act to Amend the Insurance Law in Relation to the Purchase of Prescription Drugs

The above-captioned organizations strongly support the above-captioned legislation that amends the insurance law with regard to its No Mandatory Mail Order pharmacy provisions. Despite this law enacted in 2012, New Yorkers are still being forced into mandatory mail programs when they clearly prefer to obtain prescriptions from a local pharmacy where they receive advice and support directly from a NYS licensed pharmacist who is familiar with their prescription history.

The anti-mandatory mail order law is not working as it was intended. Certain provisions in the law are being exploited by large prescription benefit managers (PBM) to block claims for covered medications so that they are available only by mail. In such cases, the pharmacy benefit manager company owns the mail order to which prescriptions are purposely steered. In this scheme medications otherwise available at local pharmacies become inaccessible to consumers who are enrolled in certain managed care plans. Local choice (the original intent of the law) is lost by New Yorkers, community pharmacies lose the ability to fill those prescriptions, and local economies suffer. This bill repairs some of the damage.

The current insurance law requires the participating network community pharmacy to accept the same reimbursement as the mail order pharmacy. However the community pharmacy must sign additional contracts with the PBMs that contain onerous pre-conditions (“terms and conditions”) before those PBMs allow claims to be processed. Local pharmacies, eager to serve their neighborhoods patrons, pursued these contracts only to find “terms and conditions” that are unreasonable and insurmountable; such as accreditation requirements designed for large-volume pharmacy operations, extensive documentation requirements that go far beyond community pharmacy business practices, and extensive reporting requirements that software systems in community pharmacies do not support. These “terms and conditions” add no clinical value to consumers, offer no additional safety to medicines dispensed, and simply act as obstacles to patient care, placed there by the PBMs exclusively for their own financial benefit. These provisions in present law do not foster the fair and level playing field between community and mail order that legislators had originally intended.

Consumer complaints regarding mail order pharmacy programs continue unabated. They include: difficulty in accessing face-to-face prescription counseling, medications that require refrigeration arriving damaged, decreased privacy, delays in starting prescription drug regimens on time, and medications that don’t arrive at all. In addition, 90-day supplies from mail order pharmacies often cause disposal problems associated with large quantities of unused medications. Mail order might work for some consumers, but it doesn’t work for all. The legislature and Governor took action in 2012 to level the playing field, guarantee a local option for consumers and mandate that co-pays and prescription costs are the same whether consumers choose a network community pharmacy or mail order. This bill retains these key elements.