



PHARMACISTS SOCIETY OF THE STATE OF NEW YORK

TESTIMONY

**JOINT LEGISLATIVE BUDGET HEARING
HEALTH AND MEDICAID**

February 11, 2025

**Danny Dang, President
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Dear Honorable Finance Chair Krueger, Honorable Ways & Means Chair Pretlow, Senate Health Chair Rivera, Assembly Health Chair Paulin, and distinguished Members of the Legislature:

My name is Danny Dang and I currently serve as President of the Pharmacists Society of the State of New York. I am also an independent pharmacy owner/operator, who works diligently to provide best in class pharmacy services to the residents of Hell's Kitchen in Manhattan. The Greatest City in the World deserves the best healthcare possible, and I am proud to be a part of the healthcare solution for the health challenges my community faces.

PSSNY is a more than 140 year-old statewide organization with regional affiliates that represents the interests of more than 25,000 pharmacists who practice in a variety of settings. Most members practice in community pharmacies. Many are independent owners who regularly travel to Albany to speak with the Legislature about the state of pharmacy, including the opportunities and challenges facing the profession. As you know, pharmacies and pharmacists provide a first line of care in urban and rural settings across the State, and New Yorkers deserve unencumbered access to the pharmacy of their choosing.

First, we want to thank the Legislature for your support over the past several years. You have been responsive to our advocacy in support of independent pharmacy and the New Yorkers that we serve. In 2022, you passed historic Pharmacy Benefits Manager (PBM) legislation, ensuring that New Yorkers have more transparency and control over their prescription drug benefits. Now, New York State is home to the only Pharmacy Benefits Bureau, which is a government agency specifically tasked with the duty to regulate PBMs. You also worked very hard to help shape a Medicaid pharmacy prescription drug benefit that works for all New Yorkers.

For the Fiscal Year 2026 State Budget, Governor Kathy Hochul has proposed certain pharmacy-related policy items that we would like to provide input on. For the record, PSSNY takes the following positions:

Health / Mental Hygiene Article VII
Part C – Pharmacy Related Provisions

- **PSSNY opposes the proposed elimination of prescriber prevails.** The Executive proposes to eliminate prescriber prevails, which is a feature of New York's Medicaid program that gives doctors the final say over which medications are dispensed to patients. Prescribers are well aware of the efficacy and availability of generic equivalent medications. However, in some cases, the prescriber may specify a name-brand medication for the treatment of a specific patient or condition. The State should not step in and interrupt that prescriber/patient relationship by overruling the prescriber.

Health / Mental Hygiene Article VII
Part V – Remove Unnecessary Restrictions on Workers

- **PSSNY Supports the proposal to Permit licensed pharmacists to administer COVID-19 vaccines to patients two years of age or older.**

Pharmacists have provided safe, effective, and reliable vaccinations to New Yorkers for decades. We welcome the authority to immunize persons age 2 and older to ensure that New York's efforts to battle COVID-19 continue.

- **PSSNY OPPOSES the proposal to allow pharmacy technicians to administer vaccines.**

Pharmacy technicians are only recognized in *Article 28* facilities. Granting them an expansion of scope of practice will only benefit hospitals and the pharmacies in hospitals, while perpetuating the inequity of practice settings.

Instead of the Executive's proposal, PSSNY recommends the inclusion of **S1050A (Cooney) / A8115B (Solages)** in the final enacted budget. The legislation creates parity with pharmacy technicians operating in Article 28 facilities and the community pharmacy setting. It also allows pharmacy technicians to perform compounding, preparing, labeling, and dispensing of drugs in retail pharmacy settings.

- **PSSNY Supports the Executive's proposal to transfer oversight of the professions to the State Department of Health.**

New York State's unusual bureaucratic structure bifurcates the regulation of the practice of pharmacy between the Department of Health, and the Education Department. Although both are State agencies, sometimes the two do not align in priorities or outlook when it comes to scope of practice expansion. This can lead to confusion and "mixed messages" as PSSNY works to advance the profession. Pharmacists also face a number of administrative requirements because they answer to multiple agencies, taking time away from serving patients. Therefore, for the sake of reducing unnecessary regulatory costs, and for a single vision for the practice of pharmacy, we support the proposal to move the regulation of the profession to the DOH.

- **PSSNY Supports the Proposal to allow licensed pharmacists to prescribe and order medications to treat nicotine dependence that are approved by the Food and Drug Administration (FDA) for smoking cessation.**

It is well settled that nicotine carries significant risk of cancer and other physical ailments. Smoking cessation products approved by the FDA have demonstrated the ability to help people quit smoking and, according to the FDA, can double a person's chance of quitting

successfully. Quitting smoking can lower risk of cancer, heart disease, stroke, emphysema, vision loss, and other serious diseases. However, these positive results can only be achieved if they are available for New Yorkers to use. Therefore, in order to have these benefits as widely available as possible, PSSNY supports the Governor's proposal.

Transportation, Economic Development, and Environmental Protection Article VII
Part Z – Pharmacy Benefit Manager Rebate Transparency

- **PSSNY Supports annual requirements for Pharmacy Benefit Managers (PBMs) to disclose and report on details of rebate contracts to the public.**

Despite the legislative and policy victories achieved to curb PBM abuses and enforce transparency, there is still work to be done. The Executive proposal to require PBMs to annually publish a report on their websites containing detailed information on rebate contracts. The bill outlines the specific aggregated data required for disclosure in each PBM's annual report, defines what constitutes a "rebate contract", and requires that a copy of each PBM's annual report be filed with the Superintendent of the Department of Financial Services (DFS) and with the Department of Health (DOH).

PSSNY strongly urges the Legislature to include the following measures in the final enacted budget:

- **PSSNY urges the Legislature to include a Commercial Payment Floor in the final enacted budget S3467A (Rivera) / A6627-B (McDonald) *(2024 bill numbers)**

Since the implementation of Medicaid fee for service, the PBMs have begun to aggressively under-pay for medication in commercial plans. The bill would mandate that PBMs pay in-network pharmacies the greater of the National Drug Acquisition Cost (NADAC) or acquisition cost of a medication plus a professional dispensing fee. For brand name drugs and drugs that require special packaging, shipping or other costs to be incurred to dispense, PBMs will pay an additional fee to ensure that the dispensing pharmacy does not lose money on the drug.

- **PSSNY urges the Legislature to include OMIG Reform - S5329E (Harckham) / A6813C (Paulin) *(2024 bill numbers)**

OMIG audits in pharmacy settings tend to focus on high-cost drugs, not a random sampling of all prescriptions. Audits should be focused on Waste, Fraud and Abuse. However, these audits tend to focus on ministerial errors such as typos, mistakes in paperwork, etc. New York's extrapolation method can turn a \$200 error into a \$200,000 fine. This is punitive and unjust, and does nothing to deter Waste, Fraud and Abuse.

Conclusion

PSSNY appreciates the work that the Executive and Legislature have put into supporting the practice of pharmacy over the past several years. We urge our partners in government to continue to be vigilant in protecting New Yorkers from PBM abuse. While neighborhood pharmacies are critical access points they are also small businesses buckling under PBM predatory, monopolistic practices.

We look forward to meeting with you individually to discuss how we can ensure that New Yorkers receive the healthcare they deserve.

Respectfully Submitted,

Danny Dang,
Independent Pharmacy Owner and President of PSSNY