Suburban Hospital Alliance of New York State, LLC

OPPOSITION MEMO

Date: **May 19, 2025**
To: **Assembly Health Chair Paulin**
Senate Health Chair Rivera
Members of the Hudson Valley and Long Island
From: **Wendy Darwell, President & CEO**
Re: **S.705 (Krueger) – referred to Senate Health Committee**
A.2140 (Jackson) – referred to Assembly Health Committee

The Suburban Hospital Alliance of New York State, representing hospitals and health systems on Long Island and in the Hudson Valley, is strongly opposed to S.705/A.2140, which would sharply reduce reimbursements for care provided at hospital-owned outpatient departments, as well as physician practices and ambulatory surgery centers This will result in reduced access to care in community-based settings, the impact of which will hit vulnerable patients the hardest while padding insurers' profits.

Far exceeds scope of Medicare policy
S.705/A.2140, the so-called "Fair Pricing Act," would cap at 150 percent of the Medicare rate hospital and health systems' reimbursements by commercial insurers for services provided at outpatient sites. Although the bill purports to mimic a Medicare statute, which in 2015 implemented site-neutral payments for a limited subset of services, this legislation would go far beyond that. It would extend site-neutral payment to a list of codes recommended by a Medicare regulatory advisory board that have been rejected to date by policymakers and leaves an open-ended invitation for the Commissioner of Health or Superintendent of Financial Services to apply this policy to additional services and procedures.

Interferes with free market negotiations
This legislation also is notably different from the Medicare policy in that the target of capped payments would be commercial insurance rates. This interferes with the free market right of healthcare providers and health plans to negotiate the terms of their contracts. Health plans are not victims in such negotiations – even the largest health systems are not on a level playing field with the multi-national, for-profit giants that dominate New York's insurance market. It is up to health plans to determine what the market will bear and for providers to determine the

reimbursement rates that they can afford to accept. There is nothing in the legislation to compel health plans to pass savings onto consumers or employers.

Health systems are not driving physician practice acquisition – for-profit entities are
The legislation also is purportedly intended as a response to non-profit health systems' acquisition of physician practices in recent years. However, health systems are far from the top drivers of physician practice acquisition; according to a study conducted for the American Hospital Association by Levin Associates, 65 percent of practices acquired between 2019 – 2023 were purchased by private equity-backed entities. Health system acquisitions, at 6 percent, are fourth in line behind larger physician groups and health plans. In fact, Optum Health – a subsidiary of UnitedHealth Group – is now the largest employer of physicians in the country, representing about 10 percent of the physician workforce. Optum keeps the premium dollar whether this law is enacted or not.

Higher reimbursement rates for hospital-owned practices are justified by enhanced regulatory burden, requirement to serve all patients
Reducing reimbursement for hospital-owned practices or equalizing those rates with physician practices ignores the significant expenses uniquely incurred by hospitals. Unlike private physician practices, Article 28 facilities must meet more stringent life and fire safety codes, have emergency preparedness, infection control and quality reporting requirements that physician practices do not, and must accept all patients, regardless of insurance coverage or lack thereof. Consequently, hospital or health system-owned clinics treat a sicker, more complex patient population than a typical private practice. Privately-owned practices, surgery centers and urgent care clinics have the ability to cherry-pick their patients.

S.705/A.2140 would fundamentally alter the economics of health care, to the detriment of underserved populations and for the benefit of health plans' profit margins
The trend of hospital acquisition of physician practices has been explicitly driven by public policy at the state and federal levels through under-reimbursement by government payers, the need for vertical integration in order to better coordinate care and achieve quality metrics, and the push to extend services into underserved communities. It's essential to eke out an operating margin on some services to offset underpayment by government payers and reinvest in services.

The two primary ways that healthcare providers can offset decades of under-reimbursement by public payers – Medicaid only reimburses hospitals in the suburban regions about 68 cents for every dollar it costs to provide care; Medicare is 87 cents –and still keep their doors open are achieving economies of scale and shifting costs to commercial payers. As the share of services covered by public payers grows, this will become more imperative. With capped commercial reimbursements, health systems would be unable to maintain many of their current services – inside hospitals and at community-based sites. Insurer and private equity-backed outpatient practices will not serve the same population if they cannot make money doing so.

The legislation inherently proves this point by carving out distressed and safety net providers from the mandate. Such providers are struggling precisely because they treat a disproportionate share of Medicare, Medicaid and uninsured patients and so lack the ability to shift costs to commercial

payers. The Fair Pricing Act will only increase the number of distressed providers, increase health plan profits, and reduce the availability of services for disadvantaged populations.

Uncertainty of ongoing federal funds threatens all providers

The timing of this legislation could not be worse. Healthcare providers and the State of New York are facing sharply reduced federal support for our healthcare system. Just last week, the House of Representatives advanced legislation that directly targets New York's expanded insurance coverage, provider taxes, Directed Payment Template and new managed care organization (MCO) tax, the revenue from which has been earmarked to provided needed increases in Medicaid rates to all providers. The Governor's office estimates these policy changes translate into an $11 billion annual loss of federal support for New York's healthcare system – an amount the state surely cannot absorb without significant provider cuts and termination of coverage, which increases hospitals' charity care burden. More uninsured patients, compounded by likely reimbursement cuts, will make healthcare providers more financially fragile. Enacting price caps on commercial payer rates will only hasten an emerging crisis.

For these reasons, we urge you to oppose S.705/A.2140.