MEMORANDUM IN SUPPORT
S5939C, Skoufis/ A5882C, McDonald
Patient Access to Pharmacy Act

The Community Pharmacy Association of New York State (CPANYS) represents pharmacies of all types and sizes, and in every county across the State. Together, we are focused on protecting patient access to pharmacy care and strengthening the role that pharmacists can play as part of the health care team to improve patient health outcomes while reducing costs.

CPANYS supports this legislation to provide a minimum reimbursement level that pharmacy benefit managers (PBMs) must pay participating pharmacies in state-regulated commercial insurance plans.

New York State has been a leader in enacting a number of requirements and reforms to regulate PBM practices in order to protect patient access to essential medication and other pharmacy care provided by community pharmacies. This includes PBM licensure requirements, state oversight with the creation of a new PBM Bureau at the Department of Financial Services and a series of regulations related to PBM practices including most recently the adoption of Market Conduct regulations. We applaud these efforts.

However serious concerns remain related to the inadequate payments that PBMs provide to community pharmacies, which are often below their costs to actually procure and dispense prescription drugs for New Yorkers.

This legislation builds on actions taken by the State Medicaid program which now reimburses pharmacies using a cost-based methodology both for medication costs and pharmacy costs to dispense drugs to patients. CMS federally has a national cost survey, entitled NADAC (National Average Drug Acquisition Cost) which states including New York use to set pharmacy ingredient or drug costs in Medicaid. Also, state and regional cost of dispensing surveys have been completed, and a fee has been identified for New York State. Using these surveys, the State Medicaid began in 2023 to pay pharmacies at NADAC plus the identified dispense fee of $10.18 for covered outpatient drug reimbursement. What this bill would do is require that at a minimum, PBMs must pay pharmacies at this NADAC plus dispensing fee rate for state-regulated insurance plans.

Importantly this bill creates an appeals process right for pharmacies dispensing higher cost, specialty medications which may require special handling, increased delivery costs and other special services which increase pharmacy costs in order to ensure pharmacies receive an adequate dispensing fee to cover their costs in these instances.

The goal is to bring fairness and transparency to this process to ensure that community pharmacies are able to continue to meet the needs of their communities and stop PBMs practices of paying below-cost reimbursement rates. **For these reasons, we urge the enactment of this legislation this session.**