August 23, 2019

ASSEMBLY BILL NO. 5363
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 5363 (First Reprint) with my recommendations for reconsideration.

Since taking office, I have worked closely with my partners in the Legislature to advance measures that allow New Jersey families to make more informed decisions about their medical care. With an administration in Washington openly hostile to consumer-centric health care reforms, it is now more important than ever for policymakers in this State to work collaboratively on designing and implementing workable solutions to the health care affordability crisis. An important step in this process was the enactment of the "Out-of-network Consumer Protection, Transparency, Cost Containment and Accountability Act," which mandates that health insurance carriers and providers comply with certain disclosure, reimbursement, and arbitration requirements when a member receives services from out-of-network providers. My Administration has also taken important actions to ensure affordability and access to health care for State residents by establishing a State-Based Health Exchange to provide New Jersey greater control over its health insurance market and guard against the Trump Administration's crusade to undermine the federal Patient Protection and Affordable Care Act.

Assembly Bill No. 5363 (First Reprint) represents a continuation of our shared efforts to improve transparency in New Jersey's health care delivery system. The bill requires carriers that offer health benefits plans to provide written notification to each subscriber at least 90 business days prior to the termination, withdrawal, or severance of any hospital or health system contract from the carrier's network. While the intent of this legislation is commendable, I am concerned that the notifications mandated by the bill may actually lead to greater confusion among consumers, potentially frustrating some of the progress we have made in the area of health care reform.

Although contract negotiations between carriers and hospitals frequently continue within the 90-day notification period set forth in the bill, the vast majority of contracts between carriers and hospitals are renewed. The bill would therefore require carriers to provide notification to consumers about the potential termination of contracts that, in reality, are very unlikely to terminate. I am concerned that the bill may have the unintended consequence of inundating consumers with unnecessary and misleading notifications, making the process of selecting and enrolling in a health benefits plan more confusing and burdensome than it already is.

The bill also contains deficiencies that will limit its practical impact. It requires carriers to notify prospective subscribers of any hospital or health system contract set to terminate within 90 days after a prospective subscriber's enrollment date. The bill, however, fails to identify who would qualify as a prospective subscriber entitled to this notification. With regard to the State Medicaid Program, the county boards of social services and the Department of Human Services, not individual carriers, are responsible for enrolling residents in Medicaid plans. Since the bill only requires carriers to provide notice, it is unclear how the protections in the bill would be afforded to the over 1.7 million residents enrolled in the State Medicaid Program who obtain coverage through the State or the county agencies on behalf of the State.

Fortunately, the bill's goal of promoting transparency and consumer protection can be achieved through less proscriptive means. Rather than requiring written notification to subscribers of a contract's anticipated termination date, which may unnecessarily alarm or mislead subscribers, the bill's ends can be accomplished by requiring carriers and hospitals to publish on their websites contracts to which the carrier or hospital is a party. This will ensure that interested consumers may access information about existing contracts relevant to their healthcare in a manner that is

less likely to lead consumers to draw potentially incorrect inferences about a contract's termination. It will also ensure that all consumers, regardless of their subscriber status or whether they are enrolled in Medicaid or private plans, benefit from the transparency mandated by the bill.

Accordingly, I herewith return Assembly Bill No. 5363 (First Reprint) and recommend that it be amended as follows:

Page 2, Title, Lines 1-2:	Delete "and health system"
Page 2, Section 1, Line 8:	Delete "shall provide" and insert "and every general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall publish on its Internet website"
Page 2, Section 1, Lines 9-15:	Delete in their entirety
Page 2, Section 1, Line 16:	Delete "The termination date shall be"
Page 2, Section 1, Line 16:	Delete "a contract" and insert "each contract for in-network service to which the carrier or hospital is a party."
Page 2, Section 1, Lines 17-35:	Delete in their entirety
Page 2, Section 1, Line 37:	After "hospital" delete "or health system"
Page 2, Section 1, Line 37:	After "unless the hospital" delete "or health system"

Respectfully,

[seal]

/s/Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor