Memorandum in Opposition

Opioid Excise Tax

SFY 2019-20 Executive Budget (S1509-A/S2009-A Part XX)

The New York American College of Emergency Physicians (New York ACEP) is opposed to provisions in the 2019-20 proposed State Executive Budget to impose an excise tax on the first sale of an opioid in the State at the following rates:

- A quarter of a cent per morphine milligram equivalent (MME) where the wholesale acquisition cost (WAC) is less than 50 cents; or
- One and one-half cents per MME where the WAC is 50 cents or more.

While the stated intent of this proposal is to require drug manufacturers and distributors to contribute to the State’s efforts to address the opioid crisis, this tax will undoubtedly be passed on to pharmacies, hospitals, hospice providers, and vulnerable patients in need of pain relief for serious and legitimate reasons.

This proposal sets a dangerous precedent of taxing a necessary health care treatment for patients. If enacted, it would be the first law in the country to impose an excise tax on a prescription medication.

New York ACEP is concerned that the tax will raise health care costs for all while making it more difficult for patients who are in pain to obtain legitimate treatments. In particular, the tax will increase the cost of health care associated with pain medicine, including the management of chronic pain, and end-of-life care. Patients with cancer or other acute pain, those with serious injuries such as veterans, post-surgical patients, and the elderly will be impacted. The health of elderly patients could be at risk if they are forced to switch to non-steroidal anti-inflammatory drugs (NSAIDS). NSAIDS are not recommended for elderly patients due to the increased incidence of GI ulceration and bleeding which can be fatal.

Further, patients with complex medical needs who truly need medications, such as those with high deductible plans or who are underinsured, should not and cannot afford to pay this tax.

If patients cannot afford needed prescription pain medication this could fuel an increase in the use of illicit drugs which may be less expensive and more accessible.

New York ACEP is opposed to an excise tax on opioids and urges the State Senate and Assembly to reject it.