

**NEW YORK CITY PUBLIC HEARING: TESTIMONY OF WOMEN'S BAR
ASSOCIATION OF STATE OF NEW YORK BEFORE NEW YORK STATE INSURANCE
DEPARTMENT ON NEW YORK STATE'S HEALTH INSURANCE EXCHANGE**

Thank you for the opportunity to submit this testimony on behalf of the Women's Bar Association of the State of New York ("WBASNY"). I am Mary Beth Morrissey, PhD, JD, MPH, Co-Chair of the Health Law Committee of WBASNY.

ENACT LEGISLATION ESTABLISHING NYS HEALTH INSURANCE EXCHANGE

We urge the Leaders of the State of New York to enact legislation before the end of the 2011 Legislative Session to establish New York State's Health Insurance Exchange. In keeping with our mission, WBASNY is the largest statewide bar association dedicated to promoting the advancement of women in the legal profession, and generally, to improving the status of all women in society. WBASNY addresses complex legal issues as we advocate for change for women, children and families throughout the state and for the fair and equal administration of justice. The health, well-being and security of all women, and the children and families to whom women provide essential maternal care and support throughout their life course, continue to be our fundamental concerns.

**UNIMPEDED AND EQUITABLE ACCESS TO ADEQUATE HEALTH CARE: A
HUMAN RIGHTS ISSUE**

We strongly support implementation of the provisions of the Affordable Care Act for the creation of a State Health Insurance Exchange that will afford women unimpeded and equitable access to adequate health care, and the health information, health benefits, and administrative supports necessary to assure that women's health care choices, wishes, values, and preferences are honored. A recently issued report of the Commonwealth

Fund¹ documents that women have far greater involvement with the health systems over their lifespan than do men. According to social policy expert Dr. Mimi Abramovitz of the Hunter College School of Social Work, the erosion of the institutions of marriage, the market, and state welfare systems have made women much more vulnerable as they age to the burdens of chronic illness, impoverishment, juggling work, family and caregiving responsibilities.² The suffering burden that we as a society have imposed upon women is only beginning to be recognized as a public health and social justice problem, and one which we are called upon to address through social change and social action. The lived experiences of suffering and decision making among women of all ages and backgrounds – women who are pregnant and suffering with serious illness, women in their middle years who may be at risk for institutionalized long term care due to inadequate health and mental health services and inadequate future planning, women among the working poor who may not have health insurance - merit investigation and attention.

Health care – while not a fundamental right under the US Constitution, has long been hailed as a human right which ought not be denied to women.³ In designing the framework of the NYS Health Insurance Exchange, we ask you to weigh and seriously consider the public health, social justice and human rights concerns of the women of the State of New York.

¹Robertson, R., and Collins, S.R., Women at Risk: Why Increasing Numbers of Women are Failing to Get the Health Care They Need and How the Affordable Care Act Will Help, The Commonwealth Fund, May 2011, accessed on May 15, 2011 at <http://www.commonwealthfund.org/Content/Publications/Issue-Briefs/2011/May/Women-at-Risk.aspx?omnicid=20>

²Abramovitz, M. (2009). Women in a bind: The decline of marriage, market and the state. In C.A. Broussard & A.L. Joseph (Eds.), *Family poverty in diverse contexts* (pp. 26-37). New York: Routledge.

³Wetzel, J.W. (2007) Human rights and women: A work in progress. In E. Reichert (Ed.), *Challenges in human rights: A social work perspective*, (pp. 162-187). New York: Columbia University Press.

DR. MORRISSEY’S RECOMMENDATIONS FOR THE STRUCTURE AND ADMINISTRATION OF THE NYS HEALTH INSURANCE EXCHANGE
Health Literacy and Consumer Decision Aids

First and foremost, the New York State Health Insurance Exchange must be consumer friendly, and perceived and experienced by women as an open system to which they can turn to have their health care needs and the needs of their families met. It is well known that women are the primary caregivers for their families in the US, and therefore are in many ways the primary decision makers for their families when it comes to health, health care and purchasing of health benefits. It is anticipated that there will be wide variation among State Health Insurance Exchange consumers in terms of education level, cultural background, purchasing power, and linguistic capacity, and Medicaid-exchange “churning”¹ due to changes in income within short periods of time. The dissemination of culturally sensitive health literacy information to women in New York State will be critical to the success of the State Health Insurance Exchange. It is not possible in this brief testimony to describe exhaustively the content of such health literacy information. But most importantly, the architects of the State Health Insurance Exchange should make health literacy a priority, and should mandate that participation in the exchange will be tied to health literacy as a measurable outcome. Researchers at Dartmouth² have recommended that patient decision aids in the form of web programs, videos or written documents be developed to assist patients in making health care decisions. Likewise, consumer information and decision aids that promote health literacy should also be developed to help women consumers understand what plan options, benefits, premiums, cost-sharing and other choices they will have in the State Health Insurance Exchange, and

¹Sommers, B.D. & Rosenbaum, S. (2011). Issues in health reform: How changes in eligibility may move millions back and forth between Medicaid and insurance exchanges. *Health Affairs*, 30(20), 228-236.

²Brownlee, S., Wennberg, J.E., Barry, M.J., Fisher, E.S., Goodman, D. C., & Bynum, J.P.W. (2011). Improving patient decision making in health care: A 2011 Dartmouth Atlas report highlighting Minnesota. Dartmouth Institute Health Policy & Clinical Practice.

to assure that the communication process is patient- and consumer-centered, and sensitive to the specific needs of women.

Multiple Points of Access: Facilitated Enrollment, Hotlines, Emergency Room, Clinic and Primary Practice Information and Enrollment Access

It is recommended that there be multiple points of access to the State Health Insurance Exchange to assure that the goals of unimpeded and equitable access to adequate health care for all women are met. Based upon New York State experience with the Medicaid program and barriers to enrollment and re-enrollment, it is especially important that there be an appropriate structure and procedures for facilitating enrollment in the State Health Insurance Exchange. Given the anticipated wide variation in consumer use, reducing the risk of alienating low-income, less educated, and linguistically challenged individuals from the new exchange system should be a priority. Establishing call-in hotlines, web sites and creating enrollment centers in emergency rooms, clinics and primary practice sites will be instrumental in avoiding loss of women consumers who are the sickest and most in need of the health information and health benefits that will be offered through the State Health Insurance Exchange.

This testimony would be incomplete if the very critical role that family planning clinics and providers of OB/GYN services have played historically in performing health screening and health assessments for women across New York State was not highlighted. The administrative enrollment and support systems for the State Health Insurance Exchange must continue to assure that women have unimpeded access to these essential clinic sites and services, both free-standing and hospital-based clinics.

Lastly, policymakers in New York State must provide a structure and appropriate support for training the new “exchange navigators” and qualified health care professionals who will be able to meet the complex health needs of women in all stages of their development and life course. Such training should include content on culture and diversity, styles of decision making, communication, and pain management and palliative care as well as provider networks, administrative systems, and consumer and patient protections. Decision making in New York State has become increasingly complex with the matrix of laws that govern health care decision making. Such laws include the recently enacted Family Health Care Decisions Act and the Palliative Care Information Act, as well as provisions of the State Budget that impose new requirements on health care providers. While these new laws are ground-breaking and models for the nation, it will require a continued investment by government to effectively implement and integrate state and federal policy changes that affect access to and delivery of health care, and empower women to participate in shared decision making processes and make informed health care decisions.

We encourage the Leaders of the State to act swiftly in introducing Health Insurance Exchange Legislation before the end of the 2011 Legislative Session, and call for steps that will assure that the urgent health care needs of women in New York State are given timely and proper attention.

Thank you for the opportunity to submit this testimony.

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Mary Beth Morrissey, PhD, JD, MPH is a health care attorney and social work researcher. She is a Founder and Chair of the Collaborative for Palliative Care of Westchester and NYS Southern Region, President of the Westchester End-of-Life Coalition, and Chair of the Policy Committee of the Aging and Public Health Section of the American Public Health Association. Please contact Dr. Morrissey at mamorrissey@fordham.edu if you have any questions about this testimony.