

MEDICAL SOCIETY
of the
STATE OF NEW YORK

Elizabeth Dears Kent, Esq.

Senior Vice President/
Chief Legislative Counsel

Division of Governmental Affairs
MEMORANDUM IN SUPPORT

CLICK [HERE](#) FOR BILL STATUS

A.2834 (TITONE)

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S.3419 (YOUNG)

AN ACT to amend the insurance law, in relation to the regulation of step therapy of first fail policies

This bill would amend the Insurance Law to better assure that patients can obtain coverage for necessary prescription drug therapies that are recommended by their treating physician, by limiting the imposition and duration of any “fail first” or “step therapy” drug protocol that may otherwise be required by a health insurance company. **The Medical Society of the State of New York supports this legislation.**

The ability of our patients to obtain needed prescription drugs and other treatments is often essential to assuring recovery from or managing a particular illness or condition. Too often, however, decisions regarding coverage for prescription drugs provided under health insurance company formularies are compromised by the companies’ and PBM concerns regarding profits for shareholders. Insurance companies impose significant restrictions ranging from higher co-payments and coinsurance to burdensome bureaucratic approval requirements such as pre-authorization, or other requirements that require a patient to “fail first” on a particular medication before taking a medication that the physician believes is most appropriate for treating the patient’s condition. These restrictions hinder patients’ access to initially obtain or remain stabilized on prescription medications that their physician has determined to be most suitable to treat their particular condition.

This legislation would enact a number of steps to limit the ability of health plans and PBMs to use “fail first” protocols that prevent or delay patients from receiving needed medications. Recent surveys by MSSNY and the New York State Academy of Family Physicians detail the extent to which these “fail first” protocols delay and adversely affect patient care, are challenging and time consuming and limit clinical judgment in determining what medication will be most effective for patients. For example, 90% of physicians indicated that step therapy protocols at least “sometimes” adversely affected their patients and 46% indicated that it “frequently” adversely affected patients. The surveys also found that 94% of respondents support the concept of requiring insurers to provide an expedited process to exempt patients from step therapy protocols when the drug they prescribed is medically necessary. These surveys clearly demonstrate why legislation is needed to assure our patients can get the medications they need without having to needlessly wait weeks or months to comply with insurance company protocols.

For all the above-stated reasons, the Medical Society of the State of New York supports this bill and urges its enactment.

Respectfully submitted,

ELIZABETH DEARS, ESQ.

2/12/15 MMA-support