

MEDICAL SOCIETY OF THE STATE OF NEW YORK



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September 1, 2021

Elizabeth Fine, Esq.
Counsel to the Governor
State Capitol, Executive Chamber
Albany, NY 12224

**RE: A.4668/S.4111 - AN ACT to amend the insurance law, in relation
to prescription drug formulary changes during a contract year**

Dear Ms. Fine:

We are writing to you relative to the above-referenced legislation that would amend the Insurance Law to protect patients and health insurance consumers by restricting the ability of healthcare plans to move a prescription medication to a higher-cost tier on a formulary during a policy year. The Medical Society of the State of New York supports this legislation and urges that it be signed into law.

Critical to assuring a patient's recovery from illness or stabilizing a patient's condition is through continuation of a medication regimen recommended by their physician. As a result, a family's choice of which insurance plan to enroll is often driven by which health insurance plan will cover their needed medication with the lowest possible out of pocket cost. Under this bill, consumers would have greater assurance that coverage for prescription drugs in the plan's formulary will not change during the enrollment year for a medication they are currently taking. Unexpected prescription drug changes in the formulary could result in higher out-of-pocket costs, which could seriously interfere with the continued medication therapy for patients with serious medical conditions such as epilepsy, cancer, asthma, and HIV/AIDS. This legislation would help to protect consumers from unforeseen higher deductibles, copayments and coinsurance that would result from health care plans moving prescription drugs to a tier with higher patient cost sharing.

We further note there have been changes to this legislation from the version that was passed by the Legislature, but vetoed, in 2019, to address concerns that had led to the veto of this legislation. These new provisions would permit an insurer in some instances to revise a formulary during the contract year provided that such formulary revision would not be applicable to a patient already using the medication subject to the formulary change or diagnosed with a condition that is treated by the medication subject to the formulary change. This change will help to balance the need for health

insurers to have the flexibility for making adjustments to formularies based upon cost concerns while also protecting patients from unforeseen additional out of pocket costs.

For the above stated reasons, the Medical Society supports this legislation and urges that it be enacted into law.

Respectfully submitted,

A handwritten signature in black ink, reading "Morris M. Auster". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

MORRIS M. AUSTER, ESQ.