

MEDICAL SOCIETY of the STATE OF NEW YORK

Elizabeth Dears, Esq.

Senior Vice President /
Chief Legislative Counsel

Division of Governmental Affairs
MEMORANDUM IN SUPPORT

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A.1212 (LAVINE)

AN ACT to amend the public health law and the insurance law, in relation to health care professional applications and terminations

This measure would amend the public health law and the insurance law to provide physicians and other health care practitioners with necessary due process protections where health insurers seek to terminate a physician from its network by failing to renew the physician's contract. **The Medical Society supports this legislation.**

Current law prohibits a health insurance company from terminating a physician's contract without a written explanation of the reasons for the proposed contract termination and an opportunity for a hearing on the proposed action by a panel comprised by three persons including a clinical peer in the same or similar specialty. These provisions, however, do not apply to situations involving the non-renewal of physician contracts. Moreover, the current law allows the plan to unilaterally control the selection of the hearing panel, thereby potentially affecting the outcome of the process.

The relationship between a patient and his or her physician is integral to the effective, efficient provision of quality health care services. As part of the Managed Care Bill of Rights enacted in the mid-1990s, the Legislature recognized the value gained by preserving the patient's relationship with his or her physician by prohibiting a health plan from terminating a provider without notice and without an opportunity to be heard by a panel of clinical peers. However, a glaring loophole in this protection exists where a plan seeks to terminate a provider by failing to renew the physician's contract. There have been some instances when it could be reasonably inferred that an insurer sought to remove a physician from its network for reasons that may be related to these physicians challenging the insurer's payment practices or the physician's referral of patients to certain needed specialists, but avoided triggering these important due process protections by simply non-renewing the physician's contract.

The bill also enhances the provisions of existing law by assuring that health insurers do not have exclusive control over the selection of the hearing panel. The bill would refine the process by which members of a hearing panel are chosen to require that one member is appointed by the health insurer, one member is appointed by the subject of the hearing and that the third panelist is chosen by the other two panel members. We believe these changes are necessary to promote fairness in the hearing process and thereby enhance physician and consumer confidence that the due process afforded is meaningful.

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

Respectfully submitted,

EILZABETH DEARS, ESQ.

3/6/15 – Support
MMA