

MEDICAL SOCIETY
of the
STATE OF NEW YORK

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Division of Governmental Affairs
MEMORANDUM IN SUPPORT

**IN SENATE HEALTH
COMMITTEE**

S.3462 (RIVERA)

**IN ASSEMBLY HEALTH
COMMITTEE**

A.2393 (GOTTFRIED)

**AN ACT to amend the public health law, in
relation to requirements for collective
negotiations by health care providers with
certain health benefit plans**

This bill would amend the public health law to permit some collective negotiations between health care providers and health insurance plans under close state supervision. **The Medical Society of the State of New York strongly supports this measure.**

This bill would allow physicians to communicate with each other and jointly negotiate with health insurance companies in certain circumstances. Currently, federal antitrust laws generally prohibit individual health care providers from collectively negotiating any provisions of contracts presented to them by managed care entities. However, the "State Action" doctrine established more than 70 years ago by the US Supreme Court permits collective action under close state supervision to vindicate legitimate public interests. This bill would allow in limited instances health care providers in New York State to conduct some collective negotiations by creating a system under which the state would closely monitor those negotiations, and approve or disapprove such negotiations from going forward.

This bill does not increase the cost of health care but will re-direct money away from insurance company profits and to the provision of necessary clinical care for patients. Importantly, the bill grants broad powers to the Commissioner of Health that would in effect empower the Commissioner to prevent joint health care provider negotiations from going forward if it is believed that such negotiations would have an adverse interest on patient access to care, for any reason including any concerns regarding increases in the cost of health care. Further this bill prohibits collective slowdowns, strikes or boycotts. Negotiations over professional fees would be carefully limited to those circumstances where the plan has substantial market power and could otherwise radically reduce physician reimbursement to levels that jeopardize access to care.

Given that many regions of New York continue to be dominated by a small number of insurers, and the increasing preauthorization requirements being imposed on patient care that are interfering with care delivery, the ability to collectively negotiate patient care terms is more important than ever. **For all of the foregoing reasons, the Medical Society strongly supports this measure and urges its enactment into law.**

Respectfully submitted,

MSSNY DIVISION OF GOVERNMENTAL AFFAIRS

3/1/19 - Support
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