

**MEDICAL SOCIETY**  
of the  
**STATE OF NEW YORK**

Morris Auster, Esq.  
Senior Vice President /  
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*Division of Governmental Affairs*  
**MEMORANDUM IN SUPPORT**

**ON SENATE CALENDAR**

**S.2849 (BRESLIN)**

**PASSED THE ASSEMBLY**

**A.2969 (PEOPLES-STOKES)**

**AN ACT to amend the insurance law, in relation to  
prescription drug formulary changes during a contract year**

This bill would amend the Insurance Law to protect health insurance consumers by prohibiting healthcare plans from moving a drug to a higher-cost tier and not allow for the removal of a prescription drug from a formulary during the enrollment year. **The Medical Society of the State of New York supports enactment of this measure.**

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 consumer'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 be assured that coverage for prescription drugs in the plan's formulary will not change during the enrollment year. 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.

While some have argued that this bill would prevent health insurance plans from responding to unexpected swings in drug manufacturer prices, it is our understanding that most PBM contracts with a manufacturer are multi-year contracts that contain "price control" provisions to prevent against such an occurrence. Moreover, it is also our understanding that, in other states that have passed similar laws to prohibit mid-year formulary/tier changes, there is no evidence that enactment of such a law led to any premium increases.

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

Respectfully submitted,

6/18/19  
MMA - support

**MSSNY DIVISION OF GOVERNMENTAL AFFAIRS**