

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

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*Division of Governmental Affairs*  
**MEMORANDUM IN SUPPORT**

**ON ASSEMBLY HEALTH COMMITTEE AGENDA A.6019 (PAULIN)**

**IN SENATE HEALTH COMMITTEE S.4785 (RIVERA)**

**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 decades ago by the US Supreme Court permits collective action under close state supervision to vindicate legitimate public interests. This bill would allow health care providers in limited instances 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 the excessive and ever-increasing pre-authorization and claim hassles being imposed by health insurers that are interfering with needed patient care as these insurers continue to hold dominant market positions in almost every region of the State, the ability for physicians to collectively negotiate patient care terms is more important than ever. Permitting collective negotiation is essential if we are to help sustain community-based physician delivery of care as more and more physicians are faced by economic challenges to become health system employees. **For all of the foregoing reasons, the Medical Society strongly supports this measure and urges its enactment into law.**

5/22/23  
MMA - support

Respectfully submitted,

**MSSNY DIVISION OF GOVERNMENTAL AFFAIRS**