

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Tolman, Steven (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to prior authorizations of prescription medications.

PETITION OF:

NAME:

Tolman, Steven (SEN)

DISTRICT/ADDRESS:

Second Suffolk and Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00428 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO PRIOR AUTHORIZATIONS OF PRESCRIPTION MEDICATIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 **SECTION 1.** Chapter 118E of the General Laws, as appearing in the 2006 official edition, is
2 hereby amended by adding at the end thereof the following new section:
3
4 Section 61. Drug prior authorization process
5 (a) The division shall maintain a process for the evaluation of drugs to be placed on the prior
6 authorization list, which shall include:
7 (1) A public hearing on all medications prior to a decision being made on prior authorization;
8 (2) publishing conspicuous notice in at least one newspaper of general circulation and on the division's
9 website at least thirty (30) days prior to any public hearing on whether such a drug should be placed on
10 prior authorization;
11 (3) consideration of the potential impact on patient care, safety and other sectors of the state health
12 care systems including emergency room visits and hospitalizations as a result of placement of such drug

13 on prior authorization;

14 (4) evaluation of recommendations made by the Pharmacy and Therapeutics Advisory Committee,

15 established in Section 62;

16 (5) receipt of written approval by a physician who is board certified in the specialty that most commonly

17 treats the disease or prescribes the relevant therapeutic class of drugs. Said physician shall not be

18 employed by, nor have any financial relationship with, any pharmacy benefits management company

19 managing Medicaid prescription benefits, nor be a member of the Pharmacy and Therapeutics Advisory

20 Committee. Such written ratification shall be submitted to the commissioner, members of the Pharmacy

21 and Therapeutics Advisory Committee, and shall be available to the public upon request; and,

22 (6) A final decision shall be made within 60 days of the public hearing and published for public comment

23 for a period of no less than 30 days. The effective date of the decision shall not be prior to the close of

24 the comment period and effective notice of the decision's finality is available to prescribers.

25 (b) The Division shall make a report to the house and senate committees on ways and means and the

26 house and senate committees on health care financing at the conclusion of all prior authorization

27 proceedings for each therapeutic class or at least, no less often than annually. Said report shall include

28 but not be limited to the outcomes of all public hearings and prior authorization decisions; a list of drugs

29 which are and are not to be prior authorized along with corresponding information used to make such

30 decisions; sectors of the state health care program that may be affected by the drug's availability for use

31 in treating program beneficiaries; any changes made or proposed to the prior authorization process; and

32 recommendations including legislation that may benefit the prior authorization process and program

33 beneficiaries; said report shall be posted on the division's website.

34

35 **SECTION 2.** Chapter 118E of the General Laws, as appearing in the 2004 official edition, is hereby

36 amended by adding at the end thereof the following new section:

37

38 Section 62. Pharmacy and Therapeutics Advisory Committee

39 (a) There is hereby established a Pharmacy and Therapeutics Advisory Committee for the purpose of
40 advising and making recommendations to the Division of Medical Assistance's prior authorization
41 program. Said advisory committee shall consist of thirteen (13) members to be appointed by the
42 Governor and shall include: five physicians licensed in Massachusetts and actively involved in the
43 practice of medicine; three pharmacists licensed to do business in the commonwealth and actively
44 involved in the practice of pharmacy; a representative of the Massachusetts Medical Society; a
45 representative of the Massachusetts Pharmacy Association; a representative of medical assistance
46 beneficiaries in the commonwealth; and, two patient advocates.

47 In making physician appointments the Governor shall make his selections from a list of nominees
48 provided by the Massachusetts Medical Society. In making pharmacist appointments the Governor shall
49 make his selections from a list of nominees provided by the Massachusetts Pharmacy Association.

50 Advisory committee members shall serve staggered three-year terms. Two physicians, one pharmacist
51 and the representative of medical assistance beneficiaries shall each be appointed for one-year terms.

52 Members may be reappointed for a period not to exceed three, three-year terms. Advisory committee
53 members shall select a chairperson and a vice-chairperson by a majority vote of the committee
54 membership on an annual basis. Said committee shall meet at least monthly and may meet at other
55 times at the discretion of the chairperson. Notice of any meeting of the advisory committee shall be
56 published thirty (30) days before such meeting; and

57 (b) The advisory committee shall have the power and duty to:

58 (1) advise and make recommendations regarding the implementation of a drug prior authorization
59 program for the medical assistance program;

60 (2) advise and make recommendations regarding rules to be promulgated by the division regarding

61 outpatient prescription drug prior authorization;

62 (3) make recommendations for a grievance mechanism for interested parties to appeal any decision
63 made by the Division to place a drug on prior authorization;

64 (4) make recommendations to the Division regarding any inpatient or outpatient prescription drug
65 covered by the medical assistance program that is to be prior authorized as well as which drugs are
66 exempt from the prior approval process. Said recommendation shall be supported by an analysis of
67 prospective and retrospective DUR data demonstrating

68 (a) the expected impact of such a decision on the clinical care likely to be received by beneficiaries for
69 whom the drug is medically necessary;

70 (b) the expected impact on physicians whose patients require the drug;

71 (c) the expected fiscal impact on the medical assistance program;

72 (d) review and make recommendations on a semi-annual basis whether drugs placed on prior
73 authorization should remain on prior authorization; and

74 (e) make recommendations for a list of maintenance medications that are needed for chronic illnesses.