

Step Therapy Co-Sponsorship Memo

CO-SPONSORSHIP MEMORANDUM

To: All Legislators

**From: Representative John Nygren
Representative Loren Oldenburg
Senator Alberta Darling
Senator Andre Jacque**

Date: Friday, January 11, 2019

Re: Step therapy protocols for prescription drug coverage under health benefit plans.

Deadline: Friday, January 25th 2019 at 5 p.m.

Join us in enhancing the doctor-patient relationship and expediting the care patients need by cosponsoring this important piece of legislation.

When a physician prescribes a particular drug treatment for a patient, the patient's insurance company may require them to try a less expensive treatment, or series of treatments, before they can have access to the drug originally prescribed by their physician. The patient is not able to try the second treatment until the first one is proven to "fail." This protocol is known as "step therapy" and is deployed by insurance companies as they strive to control costs while maintaining high-quality care.

Unfortunately, step therapy protocols often ignore a patient's medical history, such as whether they have already tried certain drugs under a different health insurance plan, or if they have other medical conditions that might interfere with the drug's effect. It may also not take into account whether a certain drug's side effects will affect the patient's ability to perform their job, or if the patient would benefit from a drug that has a different ingestion method or dosage form. Each of these aspects can have a profound influence on a patient's compliance and responsiveness to treatment.

While many insurance companies that utilize step therapy have a process by which the patient can receive an exception, it can be unclear, resulting in excessive back and forth between the provider and the insurance company, thereby delaying care. This bill lays out five common sense exceptions to step-therapy protocol.

- 1. The patient has tried the required prescription drug while under their current or previous health insurance or health benefit plan, or another prescription drug in the same pharmacologic class or with the same**

- mechanism of action, and such prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event.**
- 2. The required drug is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen.**
 - 3. The required prescription drug is not in the best interest of the patient, based on medical necessity.**
 - 4. The patient is stable on a prescription drug selected by their health care provider for the medical condition under consideration while on a current or previous health insurance or health benefit plan.**
 - 5. The required prescription drug is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient.**

This bill provides transparency to a confusing process for patients and doctors.

If you would like to co-sponsor LRB-0350/1, please contact Chris Borgerding in Rep. Nygren's office at 6-2343 or Rachel Keith in Senator Darling's office at 6-5830 by Friday, January 25 at 5 PM.

Analysis by the Legislative Reference Bureau

This bill sets specifications on the development and use of and exceptions to step therapy protocols for prescription drug coverage. A step therapy protocol, as defined in the bill, is a protocol that establishes the specific sequence in which prescription drugs for a specified medical condition that are medically appropriate for a particular patient are covered by a policy or plan. When establishing a step therapy protocol, an insurer, pharmacy benefit manager, or utilization review organization must use clinical review criteria based on clinical practice guidelines that meet certain criteria specified in the bill, including development and endorsement of the guidelines either by a multidisciplinary panel of experts that manages conflicts of interest among its members or, in the absence of a multidisciplinary panel, based on peer reviewed publications. The bill requires the insurer, pharmacy benefit manager, or utilization review organization to consider the needs of atypical patient populations and diagnoses when establishing the clinical review criteria.

If an insurer, pharmacy benefit manager, or utilization review organization restricts the coverage of a prescription drug through a step therapy protocol, the insurer, pharmacy benefit manager, or utilization review organization must provide access to a process to request an exception to the step therapy protocol, though an existing medical exceptions process may be used to satisfy this requirement. The insurer, pharmacy benefit manager, or utilization review organization must expeditiously grant an exception to the step therapy protocol under certain circumstances specified in the bill, including when the drug is contraindicated for the patient or will likely cause an adverse reaction for the patient; the drug is expected to be ineffective; the patient tried the drug previously and discontinued its use due to adverse event or ineffectiveness; use of the drug is not in the patient's best interest; or the patient is stable on a different drug under this or a previous policy or plan. Upon granting an exception to the step therapy protocol, the insurer,

pharmacy benefit manager, or utilization review organization must authorize coverage for the drug prescribed by the patient's treating health care provider. An insured may appeal a denied request for an exception to the step therapy protocol. An insurer, pharmacy benefit manager, or utilization review organization must grant or deny a request for an exception within 72 hours of receipt, or within 24 hours in exigent circumstances. If this deadline is not met, the exception is considered granted.