



Global Healthy Living Foundation
515 North Midland Avenue
Upper Nyack, New York 10960 USA
+1 845 348 0400
+1 845 348 0210 fax
www.ghlf.org

June 7, 2010

Re: Memorandum of Support A.10411 (Bing)

The Global Healthy Living Foundation strongly supports this bill to eliminate fail first practices by health insurance payers in the State of New York. “Fail first” is the practice by a health insurance payer requiring the insured (patient) to first fail – either with poor outcomes or an adverse event – on less effective medication or medication not indicated by the FDA for the diagnosed condition, before the originally prescribed medication is covered.

The Global Healthy Living Foundation (<http://www.GHLF.org>) is a 501(c)(3) non-profit advocacy organization, based in Upper Nyack, New York, with the mission to improve the quality of life for people with chronic illness. The GHLF accomplishes its mission by advocating for improved access to care, empowering patients and caregivers to overcome barriers to care, educating the community about the importance of diagnosis, early and aggressive innovative and high quality medical intervention, long-term lifestyle improvement, and therapeutic compliance.

The practice of requiring a patient to fail first can have a dramatic impact on the quality of life. For a patient living with a condition such as Rheumatoid Arthritis, where widely accepted treatment guidelines call for early and aggressive treatment, failing first on a less effective medication, or not allowing for a combination of medications to be used, can be detrimental to their health. Forcing failure on less effective medication first, enables the progression of the disease and radiographic evidence shows irreversible joint damage.

Additionally, time and costs associated with the intervention by a health insurance company between the physician and patient is unconscionable and inappropriate.

A.10411 (Bing) authorizes a prescribing physician to override a step therapy or fail first protocol in situations including when the treatment has been or is expected to be ineffective in treating the patient’s disease or medical condition or is likely to cause an adverse reaction or other harm.

It is critical to keep the healthcare decisions solely between the physician and the patient/caregiver. Intervention in this process is costly – both in time as well as resources – and can ultimately lead to poorer health outcomes. This bill addresses a critical component of the doctor-patient relationship.

“Fail First Hurts” (<http://www.FailFirstHurts.org/>) is a grassroots awareness campaign to inform the public about the devastating effect of fail first practices. We are joined by more than 72

advocacy organizations, including medical societies, in support of the elimination of fail first practices in New York.

Through “Fail First Hurts”, patients such as Anne M., from Troy, NY, has informed us of her experience being denied a biologic to treat her Ankylosing Spondylitis, a systemic form of arthritis that creates an irreversible curvature of the spine. She was required by her insurance company to first take an older, less effective medication despite her physician prescribing medication that the commonly accepted medical guidelines called for in the treatment of this condition. “My insurance company came between me and my doctor” Anne recently wrote in a letter to the GHLF. “There were no medical justifications for this policy, only the desire to curb costs at the expense of my care. They jeopardized my health because of money.”

Thousands of New Yorkers are impacted by this benefits practice, and A.10411 (Bing) addresses a critical need of the patient community throughout the State. For this reason, the Global Healthy Living Foundation urges the passage of this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis Tharp". The signature is fluid and cursive, with the first name "Louis" and last name "Tharp" clearly distinguishable.

Louis Tharp
Executive Director

