



December 14, 2017

The Honorable James B. Eldridge
Senate Chair
Joint Committee on Financial Services
Massachusetts State House
Boston, MA 01233

The Honorable Aaron Michlewitz
House Chair
Joint Committee on Financial Services
Massachusetts State House
Boston, MA 01233

Re: Support for S. 551 and H. 492

Dear Chairman Eldridge and Chairman Michlewitz:

On behalf of the 1-in-10 Massachusetts residents with one of the nearly 7,000 known rare diseases, the National Organization for Rare Disorders (NORD) thanks the Committee for the opportunity to provide comments on S. 551 and H. 492, Acts to Reduce Health Care Costs Through Improved Medication Management.

NORD is a unique federation of voluntary health organizations dedicated to helping people with rare "orphan" diseases and assisting the organizations that serve them. We are committed to the identification, treatment, and cure of rare disorders through programs of education, advocacy, research, and patient services. NORD believes strongly that every patient deserves the medical care that is best suited for their medical situation and that will give them the best results. Based on the reports we receive from member organizations, as well as individuals, "fail first" policies (also known as step therapy) are increasingly being applied by health plans in Massachusetts with little regard for a patient's treatment history and specific medical needs.

Fail first is a procedure by which insurers (public or private) require a patient to take one or more alternative medications before being put on the medicine preferred by their provider. While this is done by insurers as an attempt to control health care costs, fail first has been increasingly applied to patients with little regard to their medical situation or treatment history. As a result, in many cases these requirements can delay appropriate treatment and ultimately increase costs, not lower them.

As the use of fail first has increased (at least 60 percent of commercial health plans have implemented it)¹, so has the need for states to ensure that these requirements do not needlessly interfere with appropriate care for patients. For instance, in some cases, patients switching insurance plans may be required to go off a successful treatment and take a less effective medicine simply because it is also less expensive.

¹ Pharmaceutical step-therapy interventions: a critical review of the literature. J Manag Care Pharm. 2011 Mar;17(2):143-55.



S. 551 (Sponsored by Sen. L'Italien) and H. 492 (Sponsored by Rep. Benson) will address this issue by providing new protections for patients when health plans implement fail first policies. First, this legislation requires that fail first is based on medical criteria and clinical guidelines developed by independent experts. Second, it will create a simple and accessible appeals process for patients and providers. And finally, it will allow patients to be exempted from fail first completely based on a proven medical need.

To ensure patient safety, Massachusetts needs to ensure that fail first policies do not interfere with appropriate care. By implementing the protections created in S. 551 and H. 492, the Committee will be protecting patients while still enabling health plans to achieve the cost saving benefits of fail first when it is appropriate.

Thank you again for the opportunity to comment on this legislation. If NORD can supply additional information, please do not hesitate to let me know. I can be reach directly at (202) 545-3830 or via email at tboyd@rarediseases.org. In addition, NORD's volunteer State Ambassador for Massachusetts, Jennifer Melanson, has been affected by this issue personally and will be providing in-person testimony to the Committee during its December 14th hearing. Jennifer can be reached via email at jen.melanson@rareaction.org.

Sincerely,

Tim Boyd, MPH
Director of State Policy