

**SENATE . . . . . No. 00290**

---

The Commonwealth of Massachusetts

\_\_\_\_\_  
PRESENTED BY:

*Steven A. Tolman*

\_\_\_\_\_

*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:

*Steven A. Tolman*

DISTRICT/ADDRESS:

*Second Suffolk and Middlesex*

# SENATE . . . . . No. 00290

By Mr. Tolman, petition (accompanied by bill, Senate, No. 290) of Tolman for legislation relative to prior authorizations of prescription medications [Joint Committee on Elder Affairs].

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ SENATE  
□ , NO. 327 OF 2009-2010.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
**In the Year Two Thousand Eleven**  
\_\_\_\_\_

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  
2 edition, is hereby amended by adding at the end thereof the following new section:

3 Section 61. Drug prior authorization process

4 (a) The division shall maintain a process for the evaluation of drugs to be placed on the prior  
5 authorization list, which shall include:

6 (1) A public hearing on all medications prior to a decision being made on prior  
7 authorization;

8 (2) publishing conspicuous notice in at least one newspaper of general circulation and on  
9 the division's website at least thirty (30) days prior to any public hearing on whether such a drug  
10 should be placed on prior authorization;

11 (3) consideration of the potential impact on patient care, safety and other sectors of the  
12 state health care systems including emergency room visits and hospitalizations as a result of  
13 placement of such drug on prior authorization;

14 (4) evaluation of recommendations made by the Pharmacy and Therapeutics Advisory  
15 Committee, established in Section 62;

16 (5) receipt of written approval by a physician who is board certified in the specialty that  
17 most commonly treats the disease or prescribes the relevant therapeutic class of drugs. Said  
18 physician shall not be employed by, nor have any financial relationship with, any pharmacy  
19 benefits management company managing Medicaid prescription benefits, nor be a member of the  
20 Pharmacy and Therapeutics Advisory Committee. Such written ratification shall be submitted to  
21 the commissioner, members of the Pharmacy and Therapeutics Advisory Committee, and shall  
22 be available to the public upon request; and,

23 (6) A final decision shall be made within 60 days of the public hearing and published for  
24 public comment for a period of no less than 30 days. The effective date of the decision shall not  
25 be prior to the close of the comment period and effective notice of the decision's finality is  
26 available to prescribers.

27 (b) The Division shall make a report to the house and senate committees on ways and means and  
28 the house and senate committees on health care financing at the conclusion of all prior  
29 authorization proceedings for each therapeutic class or at least, no less often than annually. Said

30 report shall include but not be limited to the outcomes of all public hearings and prior  
31 authorization decisions; a list of drugs which are and are not to be prior authorized along with  
32 corresponding information used to make such decisions; sectors of the state health care program  
33 that may be affected by the drug's availability for use in treating program beneficiaries; any  
34 changes made or proposed to the prior authorization process; and recommendations including  
35 legislation that may benefit the prior authorization process and program beneficiaries; said report  
36 shall be posted on the division's website.

37 SECTION 2. Chapter 118E of the General Laws, as appearing in the 2004 official  
38 edition, is hereby amended by adding at the end thereof the following new section:

39 Section 62. Pharmacy and Therapeutics Advisory Committee

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

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

51 the Governor shall make his selections from a list of nominees provided by the Massachusetts  
52 Pharmacy Association.

53 Advisory committee members shall serve staggered three-year terms. Two physicians,  
54 one pharmacist and the representative of medical assistance beneficiaries shall each be appointed  
55 for one-year terms. Members may be reappointed for a period not to exceed three, three-year  
56 terms. Advisory committee members shall select a chairperson and a vice-chairperson by a  
57 majority vote of the committee membership on an annual basis. Said committee shall meet at  
58 least monthly and may meet at other times at the discretion of the chairperson. Notice of any  
59 meeting of the advisory committee shall be published thirty (30) days before such meeting; and

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

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

63 (2) advise and make recommendations regarding rules to be promulgated by the division  
64 regarding outpatient prescription drug prior authorization;

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

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

- 71 (a) the expected impact of such a decision on the clinical care likely to be received by  
72 beneficiaries for whom the drug is medically necessary;
- 73 (b) the expected impact on physicians whose patients require the drug;
- 74 (c) the expected fiscal impact on the medical assistance program;
- 75 (d) review and make recommendations on a semi-annual basis whether drugs placed on prior  
76 authorization should remain on prior authorization; and
- 77 (e) make recommendations for a list of maintenance medications that are needed for chronic  
78 illnesses.