

## SB 2248

### Susan G. Komen/Bobbie Will-Testimony supplemental document Incorrect information to point out on the NovaRest Report on Metastatic Step Therapy

The report on page 11 states that there are **no** states that have prohibited step therapy **for associated conditions** of metastatic cancer in state law. This is inaccurate information. Pages 11-12 list specific state statutes, but some of the laws listed are from prior authorization laws, some step therapy laws, and not relevant to metastatic cancer step therapy prohibition laws. The only state law in the report that is metastatic step therapy is Louisiana, which shows associated conditions, at the top of page 12, although the report said no state has laws for associated conditions.

Below eight states are referencing the law for metastatic cancer with associated conditions.

#### **1. Arkansas- Arkansas Code 23-99-1114- [Act 699-](#)**

SECTION 5. Arkansas Code § 23-99-1114, concerning limitations on step therapy under the Prior Authorization Transparency Act, is amended to add an additional subsection to read as follows:

(d)(1) An insurance policy that provides coverage for the treatment of metastatic cancer shall not limit or exclude coverage under the health benefit plan for a drug approved by the United States Food and Drug Administration that is on the prescription drug formulary of the insurance policy by mandating that a covered person with metastatic cancer undergo step therapy unless the preferred drug is consistent with best practices that:

(A) Use for the treatment of metastatic cancer **or associated conditions** under:

(i) The United States Food and Drug Administration<sup>16</sup> approved indication; or  
(ii) The National Comprehensive Cancer Network Drugs and Biologics Compendium indication; or

(B) Evidence-based, peer-reviewed, recognized medical literature.

(2) As used in subdivision (d)(1) of this section, "metastatic cancer" means cancer that has spread from a primary or original site of the cancer to surrounding or nearby tissues, lymph nodes, or other parts of the body.

#### **2. Texas**

[SECTION 1. Chapter 1369, Insurance Code, is amended by adding Subchapter E-1 to read as follows:](#)

SUBCHAPTER E-1. COVERAGE OF PRESCRIPTION DRUGS FOR STAGE-FOUR  
ADVANCED, METASTATIC CANCER

Sec. 1369.211. DEFINITIONS. In this subchapter:

(1) "Associated conditions" means the symptoms or side effects associated with stage-four advanced, metastatic cancer or its treatment and which, in the judgment of the health care practitioner, further jeopardize the health of a patient if left untreated.

(2) "Stage-four advanced, metastatic cancer" means cancer that has spread from the primary or original site of the cancer to nearby tissues, lymph nodes, or other areas or parts of the body

Sec.1369.213. PROHIBITED CONDUCT. (a) A health benefit plan that provides coverage for stage-four advanced, metastatic cancer **and associated conditions** may not require, before the health benefit plan provides coverage of a prescription drug approved by the United States Food and Drug Administration, that the enrollee:

fail to successfully respond to a different drug; or  
prove a history of failure of a different drug.

(b) This section applies only to a drug the use of which is:  
consistent with best practices for the treatment of stage-four advanced, metastatic cancer or an associated condition;  
supported by peer-reviewed, evidence-based literature; and  
approved by the United States Food and Drug Administration

### **3. Oklahoma**

Effective: November 1, 2023

[63 Okl.St. Ann. § 7320](#)

§ 7320. Prohibiting step therapy requirements for certain drug to treat advanced metastatic cancer and associated conditions

For the purpose of prohibiting step therapy requirements for certain prescription drugs to treat advanced metastatic cancer and associated conditions.

As used in this section:

1. "Associated conditions" means the symptoms **or side effects associated** with advanced metastatic cancer or its treatment and which, in the judgment of the health care practitioner, will further jeopardize the health of a patient if left untreated; and
2. "Advanced metastatic cancer" means cancer that has spread from the primary or original site of the cancer to nearby tissues, lymph nodes, or other areas or parts of the body.

Laws 2023, c. 81, § 1, eff. Nov. 1, 2023.

63 Okl. St. Ann. § 7320, OK ST T. 63 § 7320

Current with legislation of the Second Regular Session of the 59th Legislature (2024)

### **4. Louisiana**

To amend and reenact [R.S. 22:1053\(A\) and \(D\)](#) and to enact [R.S. 22:1053\(E\)](#), relative to prescription drug benefits for persons with stage-four advanced, metastatic cancer; to prohibit denial of a prescription based upon step therapy or fail first protocols; to define key terms; to provide for an effective date; and to provide for related matters.

D. No health coverage plan shall use step therapy or fail first protocols as the basis to restrict any prescription benefit for the treatment of stage-four advanced, metastatic cancer or associated conditions if the prescribed drug is both of the following:

(1) Consistent with best practices for the treatment of stage-four advanced, metastatic cancer or associated conditions.

(2) Supported by peer-reviewed, evidenced-based medical literature

## 5. Mississippi

### TO AMEND SECTION 83-9-36

SECTION 1. (1) As used in this section, the following terms shall be defined as provided in this subsection:

(a) "Associated conditions" means the symptoms or side effects associated with advanced, metastatic cancer or its treatment and which, in the judgment of the health care practitioner, further jeopardizes the health of a patient if left untreated.

(b) "Advanced, metastatic cancer" means cancer that has spread from the primary or original site of the cancer to nearby tissues, lymph nodes, or other areas or parts of the body.

(c) "Health benefit plan" means a policy, contract, certificate or agreement entered into, offered by or issued by an insurer to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.

(2) A health benefit plan that provides coverage for advanced, metastatic cancer and associated conditions may not require, before the health benefit plan provides coverage of a prescription drug approved by the United States Food and Drug Administration, that the enrollee:

(a) Fail to successfully respond to a different drug; or

(b) Prove a history of failure of a different drug.

(3) This section applies only to a drug the use of which is:

(a) Consistent with best practices for the treatment of advanced, metastatic cancer or an associated condition;

(b) Supported by peer-reviewed, evidence-based literature; and

(c) Approved by the United States Food and Drug Administration.

## 6. Minnesota

Statutes Insurance (Ch. 59A-79a) § 62Q.1841. Prohibition on use of step therapy for metastatic cancer

Current as of January 01, 2023 | Updated by [FindLaw Staff](#)

**Subdivision 1. Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Health plan" has the meaning given in [section 62Q.01, subdivision 3](#). Health plan includes health coverage provided by a county-based purchasing plan participating in a public program under chapter 256B or 256L or an integrated health partnership under [section 256B.0755](#).

(c) "Stage four advanced metastatic cancer" means cancer that has spread from the primary or original site of the cancer to nearby tissues, lymph nodes, or other parts of the body.

(d) "Step therapy protocol" has the meaning given in [section 62Q.184, subdivision 1](#).

**Subd. 2. Prohibition on use of step therapy protocols.** A health plan that provides coverage for the treatment of stage four advanced metastatic cancer or associated conditions must not limit or exclude coverage for a drug approved by the United States

Food and Drug Administration that is on the health plan's prescription drug formulary by mandating that an enrollee with stage four advanced **metastatic cancer or associated conditions** follow a step therapy protocol if the use of the approved drug is consistent with: (1) a United States Food and Drug Administration-approved indication; and (2) a clinical practice guideline published by the National Comprehensive Care Network.

## 7. Delaware

§ 3338B. Coverage of drugs approved for treatment of certain cancers [For application of this section, see 81 Del. Laws, c. 180, §§ 3 and 4; 84 Del. Laws, c. 338, 3]. (a) No individual policy or contract of health insurance, or certificate issued thereunder, which is delivered, issued for delivery, renewed, modified, altered, or amended in this State by any health insurer, health service corporation or health maintenance organization that directly or indirectly covers the treatment of cancer shall limit or exclude coverage for a drug approved by the United States Food and Drug Administration by mandating that the insured shall first be required to fail to successfully respond to a different drug or drugs or prove a history of failure of a different drug or drugs; provided, however that the use of such drug or drugs is consistent with best practices for the treatment of stage 4 advanced, metastatic cancer or, in the case of other cancers, the use of the drug is supported by national clinical guidelines, national standards of care, or peer reviewed medical literature for the treatment of the cancer, or in the case of targeted therapy, the target at issue. (b) No individual policy or contract of health insurance, or certificate issued thereunder, which is delivered, issued for delivery, renewed, modified, altered, or amended in this State by any health insurer, health service corporation, or health maintenance organization that directly or indirectly cover the associated conditions of metastatic cancer shall limit or exclude coverage for drugs approved by the United States Food and Drug Administration by mandating that the insured shall first be required to fail to successfully respond to a different drug or drugs or prove a history of failure of a different drug or drugs; provided, however that the use of such drug is consistent with best practices for the treatment of the **associated conditions of metastatic cancer** and is supported by national clinical guidelines, national standards of care, or peer reviewed medical literature. (c) For purposes of this section, “associated conditions” mean the symptoms or side effects associated with metastatic cancer or its treatment and which, in the judgment of the health-care practitioner, further jeopardizes the health of a patient if left untreated. (81 Del. Laws, c. 180, § 1; 84 Del. Laws, c. 338, § 1.)

## 8. Ohio

Section 3902.60 | Advanced cancer fail first drug coverage definitions.

(A) Notwithstanding section [3901.71](#) and sections [3901.831](#) to [3901.833](#) of the Revised Code, a health benefit plan issued, delivered, or renewed in this state on or after the effective date of this section that directly or indirectly covers the treatment of stage four advanced metastatic cancer shall not make coverage of a drug that is prescribed to treat such **cancer or associated conditions** dependent upon a covered person demonstrating either of the following:

- (1) Failure to successfully respond to a different drug;
- (2) A history of failing to respond to a different drug or drugs.

(B) Division (A) of this section applies only to uses of such drug or drugs that are consistent with either of the following:

(1) An indication approved by, or described in, as applicable, either of the following for the treatment of stage four advanced metastatic cancer:

(a) The United States food and drug administration;

(b) The national comprehensive cancer network drugs and biologics compendium.

(2) The best practices for the treatment of stage four advanced metastatic cancer, as supported by peer-reviewed medical literature.

(C) A violation of this section is an unfair and deceptive practice in the business of insurance under sections [3901.19](#) to [3901.26](#) of the Revised Code.