



June 30, 2021

The Honorable Jim Wood  
Assembly Health Committee, Chair  
State Capitol, Room 6005  
Sacramento, CA 95814

**RE: SB 535 (Limon) – Support if Amended**

Dear Assemblymember Wood:

On behalf of the undersigned organizations, we write to express our position of *Support if Amended* on SB 535 (Limon), which seeks to remove barriers to biomarker testing. As written, the bill would prohibit prior authorization for biomarker testing for a patient with stage 3 or 4 cancer only but would allow a health plan or insurer to use prior authorization for biomarker testing that is not for an FDA-approved therapy.

We appreciate the committee's work and Senator Limon's leadership on expanding access to biomarker testing. Our groups agree that removing barriers to biomarker testing is key to improving health outcomes and saving more lives from diseases like cancer. However, the approach in this bill is limiting and leaves many patients behind. In order to ensure patients are able to gain meaningful access to biomarker testing, we urge the committee to amend SB 535 in the following ways:

1. Eliminate reference to FDA-approved therapy
2. Replace the prohibition on prior authorization with a requirement that insurance plans cover comprehensive biomarker testing when appropriate
3. Apply the law to all patients by removing reference to stages 3 and 4

1. Biomarker Testing Can Help Determine Appropriate Therapy

The amendment to apply prior authorization restrictions only when providing FDA-approved therapies could mean that no patient benefits from these changes.

*(d) Notwithstanding subdivision (b), this section does not prohibit a health care service plan from requiring prior authorization on biomarker testing that is not for an FDA-approved therapy for advanced or metastatic stage 3 or 4 cancer.*

This assumes that the provider ordering the testing or the plan determining whether or not to apply prior authorization requirements would know what therapy would be appropriate for the patient prior to receiving the results of said biomarker testing. The role of the biomarker testing is to determine which therapy or therapies that are most appropriate for the patient's type of cancer.

Treatment decisions (whether on or off label therapy) are not known at the time biomarker testing is ordered or conducted. Thus, the entire benefit of SB 535, as currently written, would not apply to any patients. This language could provide a loophole and make the intent of the bill (to remove prior authorization requirements for stage 3 & 4 patients) unimplementable, and prior authorization requirements would continue to be allowed for all patients.

## 2. Prior Authorization vs. Coverage

This legislation *does not require coverage* of biomarker testing for any patients or plans. Rather, it merely prohibits the use of *prior authorization for some patients* if an insurer chooses to cover this testing. This policy could have the unintended consequence of leading insurers to stop covering this important testing.

Proposals to prohibit prior authorization for certain services or certain patients could ultimately lead to increased costs for some patients. Prior authorization should be regulated to ensure a standardized, efficient, and patient-friendly process.

Insurance coverage for biomarker testing is failing to keep up with innovations and advances in treatment. Our groups are advocating for policies that will expand appropriate coverage of comprehensive biomarker testing for public and private insurance plans for all patients who could benefit.

We have been working to build broad consensus among industry, patient and provider groups for an approach that will have broad impact and help address existing disparities in access to biomarker testing. More comprehensive legislation to require coverage of biomarker testing passed the Illinois general assembly and Louisiana legislature this spring with unanimous support.

## 3. All Patients Should Benefit

All patients should have access to biomarker testing when medically appropriate. Some cancers including blood cancers are not staged using the 1-4 grouping system. Furthermore, some biomarker tests guide treatment decisions for early stage breast cancers and reduce recurrence. Providing protections for all stages of cancer is important for long-term survival and improved quality of life.

Our groups and others are working together in California and across the country on expanding patient access to biomarker testing. We appreciate Senator Limon's commitment to sponsor legislation next session that will expand appropriate insurance coverage of biomarker testing but we are concerned that if SB 535 passes in the current form, it will set a precedent for other states and make it difficult to advance more meaningful legislation in California on this issue in the future.

We look forward to working with the Senator and members of this committee to ensure that all California patients have the opportunity to benefit from the latest advances in precision medicine.

**American Cancer Society Cancer Action Network**  
**Fight Colorectal Cancer**  
**Global Colon Cancer Association**  
**GO2 Foundation for Lung Cancer**  
**Melanoma Research Foundation**