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Andrew G. Shuman, MD, HEC-C

To: Members of the New York Assembly Insurance Committee and  
Senate Insurance Committee

Date: February 20, 2026

Re: Support for A.3707 / S.4833 – Downcoding and Medical Necessity  
Determinations

Dear Chair and Members of the Committees:

On behalf of the American Academy of Otolaryngology–Head and  
Neck Surgery (AAO-HNS), which has approximately 13,000 members  
nationwide, I write to express our strong support for A.3707 and  
S.4833.

AAO-HNS supports policies that preserve physician-led clinical  
decision-making and ensure that health care providers are reimbursed  
accurately and promptly for medically necessary services.

A.3707/S.4833 advance these goals by establishing clear guardrails  
governing downcoding and reinforcing transparency, accountability,  
and due process when a payer alters a code or reduces payment.  
Importantly, the bills clarify that downcoding constitutes an adverse  
determination, ensuring that such actions are subject to appropriate  
procedural safeguards and appeal rights. Treating downcoding within  
the established utilization review framework strengthens fairness and  
consistency in claims adjudication.

The legislation also appropriately prohibits a health plan's review or  
audit from reversing or altering a medical necessity determination  
made by a utilization review agent or external appeal agent, including  
determinations related to site of service or level of care. This  
protection helps preserve the integrity of formal clinical review  
processes and prevents retrospective audit mechanisms from  
undermining determinations already made through established  
channels. At the same time, the bills preserve the ability to address  
fraud, waste, or abuse.

Inappropriate downcoding can delay treatment, disrupt continuity of  
care, and impose significant strain on physician practices. By

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reinforcing physician-directed clinical judgment, transparency, and due process within New York's existing regulatory framework, A.3707/S.4833 represent an important step toward ensuring that claims decisions reflect documented medical necessity rather than non-clinical payment edits.

This approach is consistent with broader physician community principles, including those reflected in policies advanced by organized medicine emphasizing transparency, clinical justification, and meaningful appeal rights when payers alter codes or reduce payment.

AAO-HNS appreciates your leadership on this important issue and respectfully urges your support for A.3707 and S.4833.

Sincerely,



Rahul K. Shah, MD, MBA  
Executive Vice President / CEO  
American Academy of Otolaryngology–Head and Neck Surgery