

## MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairperson Bill Sutton at 3:30 pm on Monday, February 20, 2023, in room 218-N of the Capitol.

All members were present

### Committee staff present:

David Wiese, Office of Revisor of Statutes  
Eileen Ma, Office of Revisor of Statutes  
Kate Smeltzer, Legislative Research Department  
Melissa Renick, Legislative Research Department  
Pam Maxwell, Kansas Legislative Committee Assistant

### Conferees appearing before the Committee:

Chad Austin, President and CEO, Kansas Hospital Association  
Dr. Antonios, Chief Medical Officer, Ascension Via Christi  
Dr. Steve Stites, VP of Clinical Affairs and Chief Medical Officer, The University of Kansas Health System  
Angie Johnson, Director of Nursing, Memorial Health System  
Dr. Dan Nielson, DDS, Kansas Dental Association  
Dr. Wayne Gilmore, D.O., Kansas Optometric Association  
Jennifer Loucks, Pharmacist, Kansas Council of Health-System Pharmacy  
Rachelle Colombo, Executive Director, Kansas Medical Society  
Jonathan Buxton, Senior Director, State Affairs, Pharmaceutical Care Management Association  
Andrew Wiens, Executive Director, Kansas Employers for Affordable Healthcare  
Alexander H. Sommer, J.D., Government Affairs Principal, Prime Therapeutics  
Alexander H. Sommer, J.D., Government Affairs Principal, Prime Therapeutics  
Sunee Mickle, Vice President, Government and Community Relations, Blue Cross and Blue Shield of Kansas  
Webex:  
Doug Gruenbacher, MD, Kansas Academy of Family Physicians  
Dr. Dena Hubbard, MD, FAAP, Kansas Chapter American Academy of Pediatrics  
Matthew Ness, Director of Government Affairs, eviCore Healthcare on behalf of Cigna

### Others in attendance:

No list available

### **Request for approval of minutes**

Approval of Minutes from February 13, 2023 meeting was moved by Representative Neighbor and seconded by Representative Penn. The motion carried.

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**Final action on: HB2325 — Adding maternity center to the definition of "healthcare provider" for purposes of the healthcare provider insurance availability act.**

Chairman called for discussion on the bill. Eileen Ma, Revisor handed out a proposed amendment and provided a briefing on the bill. ([Attachment 1](#))

*Representative Proctor moved, Representative Dodson seconded, to recommend the **HB2325** proposed Amendment adopted. Motion carried.*

*Representative Proctor moved, Representative Underhill seconded to recommend **HB2325** as amended favorably for passage. Motion carried.*

**Hearing on: HB2283 — Enacting the ensuring transparency in prior authorization act to impose requirements and limitations on the use of prior authorization in healthcare.**

Chairman opened the hearing on **HB2283**.

Eileen Ma, Revisor provided a briefing on the bill and amendment. ([Attachment 2](#))

Proponents:

Chad Austin, President and CEO, Kansas Hospital Association ([Attachment 3](#))

The pendulum has swung to far in regards to the prior authorization process. The Association hears every day from member hospital CEO's about the frustrations they hear from their physicians. The Association also hears from hospital CFO's about how much it's adding to the cost of health care within the hospitals. They also hear from front line nurses about how frustrated they are at paperwork delays and challenges it causes the patients they serve. The hearing will help those to understand a little bit about the problems with the system and the impact it's having on constituents and Kansas in general.

Rachelle Colombo, Executive Director, Kansas Medical Society ([Attachment 4](#))

The question was about the balance between cost control measures and patient care. As it was described, prior authorization is a cost control method that is put in place by health insurers. It's their belief that if a service is covered by an insurer, then a physician should not have to waste costly time to get that care delivered. Prior authorization delays care which results in lower quality care. It's not good for patients and the balance is misaligned. They believe this is the appropriate time to look for solutions to decrease the administrative burden which is delaying care and decreasing quality of care for Kansas patients.

Webex:

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Doug Gruenbacher, MD, Kansas Academy of Family Physicians ([Attachment 5](#))

Prior authorization is often very burdensome and can present a significant impediment to optimal patient care. It causes delay in medically necessary care which may detrimentally affect patient health and finances. Excessive prior authorization requirements also create administrative hassles for physicians and consume time that otherwise would be devoted to patient care. Patients and physicians would like to reduce the intrusive effect that prior authorizations have on the patient physician relationship so the care that's truly needed to help keep Kansan's healthy can be provided.

Speaking:

Dr. Antonios, Chief Clinical Officer, Ascension Via Christi ([Attachment 6](#))

This bill sets out clear requirements in terms of time frames for prior authorization processes including requests for additional information, timely review, and appeals. The legislation will recalibrate the process in Kansas to center around the patient and the provision of high-quality care in an appropriate timely and safe manner. It would also bring vital transparency to a process that otherwise can be opaque by establishing clear parameters in the prior authorization process. The bill will strengthen the confidence in the health care system and provide patients and providers with the transparency they need to navigate the processes effectively.

Dr. Steve Stites, VP of Clinical Affairs and Chief Medical Officer, The University of Kansas Health System ([Attachment 7](#))

The nurse he's worked with over 20 years spends about 25-50% of time taking care of prior authorizations. In the end-stage chronic disease setting, they will spend enormous amounts of time trying to negotiate this part of the health care system. Prior authorizations are not themselves bad. There used to be a system that worked that started back in the 1960's. They started with utilization review and people were admitted to the hospital with barium enemas. It became clear that hospitals that were originally meant to help control costs has become a way to help avoid costs by health insurance companies. That shift in the objective has led to delays and problems for patients. Techniques have escalated over time to become so hard to navigate. It has become a morass of fax numbers, emails, phone numbers and the attempt to try and delay care that's the challenge. They don't stand against the idea that they need to have prior authorizations, they stand against the confusion and the morass which this bill helps to address

Angie Johnson, Director of Nursing, Memorial Health System ([Attachment 8](#))

The prior authorization bill is a necessary step to help providers and nurses deliver care in a responsible and timely way. When the providers look to obtain a prior authorization for the suggested course of

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care, they're usually asked to try a different course of care or resubmit additional documentation or left waiting for days, weeks, even months for an answer. This impacts patients by delaying care and often interfering with the best course of care. Oftentimes the patient doesn't understand why their doctor's recommendation is denied. They assume it's the hospital's decision when in fact it's the payer that delays. Prior authorization decisions have increased in recent years and these delays end up costing them more money by increasing care costs as condition worsens. While they do have dedicated staff to help work on prior authorizations, sometimes the conversations do require nurses or even providers with clinical experience to get on a phone call which they have to plan ahead and block out their schedule. This takes nurses off the floor and away from patients during an unprecedented nursing shortage. She understands the need for prior authorizations to help contain costs and eliminate unnecessary testing, all they are asking for is an easy way to track it with an online portal. Right now, some insurance companies like paper faxes, some of them like an online portal, and some of them like a confidential email system. Trying to figure out which one they are dealing with that day is a lot to figure out. They want to be able to provide peer-to-peer reviews so the best care can be provided and established turnaround times for answers so the patients don't have to wait unnecessarily long times. She believes this bill does that and thinks this bill is a great first step to accomplishing those things.

Dr. Dan Nielson, DDS, Kansas Dental Association ([Attachment 9](#))

This house bill will provide transparency. The promise to pay also combined with the retroactive denial are the two big issues that are coming from dentists. They offer prior authorization in most Kansas dental offices in an attempt to circumvent the inaccurate process that is just them guessing. They offer the patient the service of prior authorization with written communication from an insurance provider. This requires the dental office to file documents, x-rays, and appropriate coded treatment plans to the insurance company to review. In the dental world it takes about three to five weeks to get this document back. About 30% of his staff's time is prior authorizations. They are not asking them to do much different, but honor what they've said.

Dr. Wayne Gilmore, D.O., Kansas Optometric Association ([Attachment 10](#))

Optometrists and their patients often have to deal with two different types of insurance as many patients have a vision plan that may be bundled with or completely separate from their medical plan. Depending on the reason for the visit, they bill either the vision plan or the medical plan and, in some cases, have to be denied by one in order to bill the other. Obtaining prior authorizations through the current process can be confusing and doesn't always provide accurate information. In some cases, services are denied and deemed the patient responsibility after the fact. This is confusing for both patients and providers and the bill addresses a growing problem with prior authorizations.

Jennifer Loucks, Pharmacist, Kansas Council of Health-System Pharmacy ([Attachment 11](#))

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Jennifer oversees a group of 18 pharmacy technicians that support prior authorizations mainly for specialty medications. This group was put together to help with provider burnout and healthcare practitioners leaving the organization because nurses don't go to school to do prior authorizations. The burnout is happening with this group of pharmacy technicians. There are specialty medications that are the only one available, no alternatives. Team members are spending countless hours trying to get patients approved for a medication and at the end of the day they get 95-97% of those approved. Prior authorization historically was for those "me to" medications where there is another option and there is a brand name that maybe is just as good as the generic. But when they see this in their specialty patients there really isn't another option. This may be contributing to some of the waste and expense.

Webex:

Dr. Dena Hubbard, MD, FAAP, Kansas Chapter American Academy of Pediatrics ([Attachment 12](#))

Number one, an ounce of prevention is worth a pound of cure. Prevention in getting patients the treatment, medications, and procedures they need in a timely manner, which is going to save money. It's better for the patient, it's better for the health care system. Minimizing the prior authorization hurdles they have to jump through is very beneficial. Number two, is accountability. There is no accountability for denial of prior authorizations or care that has been provided. Dr. Hubbard thinks this bill goes a long way to start that process of providing that transparency.

Written:

Dr. Travis Oller, Executive Director, Kansas Chiropractic Association ([Attachment 13](#))

Simran Elder, MD, Medical Oncology, AdventHealth Shawnee Mission Cancer Center ([Attachment 14](#))

Kemper Tell, Executive Director, Kansas Association of Osteopathic Medicine ([Attachment 15](#))

Lori J. Pierce, MD, FASTRO, FASCO, Chair of the Board, Association for Clinical Oncology ([Attachment 16](#))

Aaron Dunkle, Executive Director, Kansas Pharmacists Association - Topeka, Kansas ([Attachment 17](#))

Robert L. Olm-Shipman, President & Chief Executive Officer, South and East Region, Saint Luke's Health System ([Attachment 18](#))

Opponents:

Webex:

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Matthew Ness, Director of Government Affairs, eviCore Healthcare on behalf of Cigna & Roseleen Charania, Medical Director for Oncology Imaging, eviCore Healthcare ([Attachment 19](#))

Patients deserve to get the most appropriate care in line with the latest evidence-based care 100% of the time. Utilization management programs work in partnership with the ordering physicians to ensure this is the case. Utilization review plays a critical role in helping patients receive high-quality, evidence-based care, and it keeps costs down for the entire health care system. Policymakers must consider the health and safety impact that this bill will have on impacted patients. Patients' well-being should be considered 100% of the time.

Speaking:

Jonathan Buxton, Senior Director, State Affairs, Pharmaceutical Care Management Association ([Attachment 20](#))

Prior authorization is truly about a partnership. They are partnering with providers to make sure that the best care is provided to the patient at the right time for the right diagnosis. It's important to recognize this is not just the patients and the providers that are involved in this situation, they are talking about payers as well. Insurance is a pooling of risk. They all pitch in and pay a share and then they take care of their neighbor. Because of that, pooling of the risk is important that payers have some say in how things proceed to make sure that doctors and hospitals are providing the most efficient care and the lowest cost care that will work to treat the patient. Medical knowledge is growing exponentially. Every 73 days it doubles. Prior authorization is the opportunity to bring in a second opinion to help make sure that the most current data is being used to treat that patient. It makes sure they are doing the lowest cost, most effective treatment first and it protects those payers, it protects the plan sponsored employers' unions, the state Medicaid programs. They have to make sure they use those resources wisely and that's one reason that prior authorization is a tool. Patient safety is bringing multiple heads into one situation to look at the whole perspective. The member companies know every drug that is filled on the patient's plan. A doctor may not be aware of everything that's been written by another doctor if they're in a different network or if they're in a different hospital system. Prior authorization allows them to protect patients by making sure that adverse drug interactions are caught, making sure drugs that are subject to high potential for abuse, are monitored. Prior authorization is a partnership working together.

Andrew Wiens, Executive Director, Kansas Employers for Affordable Healthcare ([Attachment 21](#))

Kia is an organization that was launched to fight alongside businesses and employees who are facing the rising cost of health care. Employer sponsored health care benefits are important, not only to employers but also to Kansas workers. Over the year's employer sponsored health coverage has taken some hits from mandates and other government requirements that raise those costs. Health care

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benefits are an important employee retention and attraction tool and they should do what they can to keep costs low. Employers would tell you one of the biggest problems is costs. This bill today they believe would raise the cost of employer sponsored health care. This is essentially the government coming in and telling private entities how to conduct business and the contractual arrangements that are made between them. The effect of that will raise costs on employer sponsored health care. This adds regulations onto a process, that even by the proponent's own admission, is a process that's a cost control measure that is effective at keeping health care costs low. Prior authorizations are a tool that helps improve patient access to more affordable safe health care services while minimizing overall market costs.

Alexander H. Sommer, J.D., Government Affairs Principal, Prime Therapeutics ([Attachment 22](#))

Prior authorization is a valuable tool this bill takes aim at. Prior authorization is one of the foundational tools that health care payers use to help patients get the right medication at the right time to best treat their condition. Their average turnaround time for standard prior authorization requests is 15.77 hours and for urgent requests it's 3.8 hours. Prior authorizations are not an administrative tool meant to frustrate. It's a key checkpoint in the health care system that ensures health care dollars are spent on high quality clinical treatments based on peer-reviewed science rather than inappropriately prescribed opioids or unproven safe and unnecessary hacks of the system. Opioids prior authorization is one of the primary tools used to combat the kind of opioid abuses that decimated households across the state. It is a necessary component of ensuring that opioids are at the quantity prescribed. An unnecessary part of that person's treatment regiment, the gold card scheme established by this bill, removed that protection. One of the key reasons prior authorization exists is to make sure the drug is being prescribed for the right reason. The health care system requires certain checks and balances. This bill takes aim at one of those fundamental checkpoints putting patients at risk dramatically increasing the cost of providing health care benefits in Kansas.

Sunee Mickle, Vice President, Government and Community Relations, Blue Cross and Blue Shield of Kansas ([Attachment 23](#))

Blue Cross and Blue Shield of Kansas is a local mutual not for profit company. This issue is important to their members because they are spending their members dollars on their health care services. They operate in 103 of the 105 counties in Kansas. Johnson and Wyandotte counties are part of the Blue Cross Blue Shield of Kansas City plan. They try hard not to oppose legislation. It's their goal to work with providers because providers are the backbone of what they do at Blue Cross Blue Shield and they value what they do in the communities and they understand they are practicing medicine and that's what they should be doing for their members and for Kansans. This bill is not the bill that should be passed for them. All should be looking at the current laws that are on the books. There are actually utilization review laws in Kansas that have been passed and those laws are actually based on the U.S. Department of Labor standards and those are actually using the Utilization Review Accreditation Commission guidelines. In those guidelines, those laws actually allow the state insurance

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commissioner to set regulations on prior authorization. The insurance commissioner has done that today. This includes many of the timelines that are listed in the bill. This bill actually conflicts with current state law and it also makes it more challenging. There seems to be a lot of confusion and what all can do and can't do right now in the state. This means they need to do more communicating on how prior authorization laws actually do work in Kansas today. State law today prohibits anyone from having prior authorization on emergency services. Ms. Mickle thinks that going through and making sure the things that are outlined today in state law are happening. That's part of this legislation, but there's no need to have legislation on top of current state law in those situations.

Written:

Scot Kibbe, Vice President, State Government Relations, American Property Casualty Insurance Assn. (APCIA) ([Attachment 24](#))

Coni Fries, Vice President of Government Relations, Blue Cross Blue Shield of Kansas City ([Attachment 25](#))

Eric Stafford, Vice President of Government Affairs, Kansas Chamber ([Attachment 26](#))

Neutral: None

Questions asked and answered.

The Chairman closed the hearing on **HB2283**.

### **Adjourn**

The Chairman adjourned the meeting at 5:57 p.m.