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TESTIMONY OF ERIC A. CIOPPA
SUPERINTENDENT OF INSURANCE
BUREAU OF INSURANCE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
Neither for nor Against L.D. 523
"An Act Regarding Prior Authorizations for Prescription Drugs"
Presented by Senator Ned Claxton
Before the Joint Standing Committee on Health Coverage, Insurance & Financial Services
March 9, 2021 at 10:00 a.m.

Senator Sanborn, Representative Tepler, and members of the Committee, I am Superintendent of Insurance Eric Cioppa. I am here today to testify neither for nor against L.D. 523. This bill is identical to another bill this session, LD 617, "An Act Regarding Prior Authorizations for Prescription Drugs." This testimony is therefore the same as that provided for LD 617.

This bill pertains to health plans' prior authorization processes. Prior authorization is a pre-approval process that health insurance carriers may require before health care services and prescription drugs are eligible for coverage under a health plan.

Current law[1] requires carriers to make their prior authorization standards clear and readily available. The bill would add language specifying that the standards must be clear and readily available to health plan enrollees, participating providers, pharmacists, and other providers.

Current law[2] requires carriers to accept and respond to prior authorization requests for prescription drugs through a secure electronic transmission. The bill would expand on this requirement. By January 1, 2023, a carrier would be required to make one or more electronic benefit tools available to a provider in real time, at the point of prescribing, that can integrate with at least one electronic prescribing system or electronic medical record system. The tool would need to provide formulary and benefit information specific to an enrollee, including information on cost-sharing, available formulary alternatives, formulary status, and utilization review and prior authorization requirements for a drug. The bill would allow the Superintendent to grant a waiver from this requirement if requested by a carrier for good cause. The bill would also strengthen the current requirements by prohibiting the use of secure electronic transmission standards adopted by a national council for prescription drug programs for electronic prescribing transactions unless those standards have also been recommended by a national institute for the development of fair standards.

The bill also includes an unallocated provision that would direct the Bureau to: monitor carriers' compliance with the electronic transmission requirement

[1] 24-A M.R.S. §4304(2)(D).

[2] 24-A M.R.S. § 4304(2-B)

beginning January 1, 2022; request information from carriers on their adoption and usage of electronic transmission; submit a report to this committee on compliance by June 1, 2023; and take enforcement action as appropriate against non-compliant carriers.

The Bureau takes no position on the substance of the proposed electronic transmission requirements. We have two comments regarding the compliance monitoring requirements. First, we note that the additional costs to assess carriers' compliance and submit a report likely can be absorbed within the Bureau's existing resources. Second, we would note that the Superintendent currently has authority[3] to investigate violations of the Insurance Code and to enforce all provisions of the Insurance Code as appropriate.

Thank you, I would be glad to answer any questions now or at the work session.

[1] 24-A M.R.S. § 12-A.