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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Department of Insurance, Securities and Banking**

**TESTIMONY OF**

Philip A. Barlow

Associate Commissioner for Insurance

Department of Insurance, Securities and Banking

BEFORE THE

COMMITTEE ON HEALTH

Councilmember Christina Henderson, Chairperson

ON

**B25-0124, the “Prior Authorization Reform Amendment Act of 2023”**

ON

Wednesday May 24, 2023, 9:30 a.m.

Virtual Meeting via Zoom Video Conference Broadcast To Watch Live:

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Good morning, Chairperson Henderson, Committee members, staff, and District residents. I am Philip Barlow, Associate Commissioner for the Department of Insurance, Securities and Banking (DISB). On behalf of Commissioner Karima Woods, I appreciate the opportunity to testify today on Bill 25-124, the “Prior Authorization Reform Amendment Act of 2023”.

DISB regulates the insurance, securities, banking, and other financial services entities doing business in the District of Columbia. Our mission is three-fold: (1) cultivate a regulatory environment that protects consumers and attracts and retains financial services firms to the District; (2) empower and educate residents on financial matters; and (3) provide financing for small businesses. We accomplish this by effectively regulating the District’s financial services industry to ensure District residents have access to a wide array of financial services, products and providers. We also work to sustain a District business climate that encourages fair and open competition.

Bill 25-124 would regulate prior authorization requirements for certain medications, medical procedures, or other medical care. It would set timelines for insurers to respond to prior authorization requests and appeals and establish what qualifications are necessary to make these determinations. It would clarify how insurers make information on prior authorization determinations available to patients and their medical providers. It would prohibit insurers from requiring prior authorization for a treatment based solely on cost and require employers to provide timely notice to employees of medications and treatments covered under their insurer’s standard health benefit plan.

While DISB is supportive of the concept of tighter regulation on prior authorizations for certain medications, medical procedures, or other medical care, we have concerns about the Bill as written. These concerns stem primarily from the fact that DISB does not regulate or oversee the contractual provisions or relationships between health insurers and medical providers, aside from a limited role with respect to provider network sufficiency.

First, the bill would apply a broad definition to the term ‘utilization review entity.’ Specifically, the bill would include insurers, preferred provider networks and health maintenance organizations within the definition of “utilization review entity,” which falls under DISB’s regulatory authority. However, the definition also includes employers and other entities which

we do not license or regulate, which would limit DISB's ability to enforce the provisions of the bill.

Second, the bill would require the dissemination of prior authorization requirements and restrictions, as well as five years of data on requests for prior authorization, in various ways. One of the required means of dissemination, the posting of information to the carriers' websites, may not be useful for health plan enrollees, particularly among large national carriers. DISB has previously found it challenging for an enrollee to search and find requirements specific to the District of Columbia.

Third, while this bill focuses on prescription drugs, and other benefits and services, we understand anecdotally that during the advent of COVID-19 and other upper respiratory illnesses, the timeliness of prior authorizations for hospital discharges was an additional area of concern. Hospital discharge prior authorizations presented a barrier to freeing up hospital beds, whether the discharges were to sub-acute care facilities, or facilities other than a patients' home. Council may want to consider standards for timely discharge prior authorizations decision.

Fourth, requirements of the legislation will result in additional form filing requirements for the carriers. Thus, the bill may need to provide additional time for implementation. Typically, when filing changes are required as the result of a new law or regulation, 180 days is provided before the effective date.

Lastly, it seems likely that insurers and other utilization review entities will seek additional guidance on the proposed standards and any templates for collecting or reporting data. However, there is no rulemaking authority specified in the bill. There also does not appear to be clear District agency enforcement authority. This is a problem because it causes confusion to insurers and others regarding which District agency is responsible for regulating and enforcing the law once it takes effect. This could be disastrous for the healthcare industry.

In summary, DISB supports efforts to better regulate and bring transparency to prior authorization requirements, processes, and appeals. Health benefit plan enrollees should know what to expect and should have their care executed more quickly. However, DISB thinks the Bill could benefit by the inclusion of clearly specified District agency enforcement authority, rulemaking authority, and implementation requirements.

Thank you for the opportunity to testify and I look forward to answering any questions you may have.