

Department of Planning and Budget 2023 Fiscal Impact Statement

1. **Bill Number:** HB1471-H1

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron:** Fowler

3. **Committee:** Commerce and Energy

4. **Title:** Health insurance; electronic prior authorization and disclosure of certain information; out-of-pocket costs; report.

5. **Summary:** The substitute requires each health insurance carrier, beginning July 1, 2025, to establish and maintain an online process that (i) links directly to all e-prescribing systems and electronic health record systems that utilize the National Council for Prescription Drug Programs SCRIPT standard and the National Council for Prescription Drug Programs Real Time Benefit Standard; (ii) can accept electronic prior authorization requests from a provider; (iii) can approve electronic prior authorization requests (a) for which no additional information is needed by the carrier to process the prior authorization request, (b) for which no clinical review is required, and (c) that meet the carrier's criteria for approval; (iv) links directly to real-time patient out-of-pocket costs for the encounter, considering copayment and deductible, and (v) otherwise meets the requirements for contracts between carriers and participating health care providers. The bill prohibits a carrier from (a) imposing a fee or charge on any person for accessing the required online process who is required to do so or (b) accessing, absent provider consent, provider data via the online process other than for the enrollee. The bill also requires carriers, no later than July 1, 2024, to provide contact information of any third-party vendor or other entity the carrier will use to meet the requirements of the bill to any provider that requests such information. The carrier may post such information on its website to meet such requirement.

The bill requires participating health care providers, beginning July 1, 2025, to ensure that any e-prescribing system or electronic health record system owned by or contracted for the provider to maintain an enrollee's health record has the ability to access, at the point of prescribing, the electronic prior authorization process established by a carrier and the real-time patient-specific benefit information, including out-of-pocket costs and more affordable medication alternatives made available by a carrier. The bill provides that a provider may request a waiver of compliance for undue hardship for a period not to exceed 12 months. The bill requires any carrier or its pharmacy benefits manager to provide real-time patient-specific benefit information to enrollees and contracted providers for the encounter, including any out-of-pocket costs and more affordable medication alternatives or prior authorization requirements, and to ensure that the data is accurate. The bill requires that such cost information data be available to the provider at the point of prescribing in an accessible and

understandable format, such as through the provider's e-prescribing system or electronic health record system that the carrier or pharmacy benefits manager or its designated subcontractor has adopted that utilizes the National Council for Prescription Drug Programs SCRIPT standard and the National Council for Prescription Drug Programs Real Time Benefit Standard from which the provider makes the request.

The bill requires the State Corporation Commission's Bureau of Insurance to, in coordination with the Secretary of Health and Human Resources, establish a work group to (i) assess progress toward implementing electronic prior authorization and real-time cost benefit information for prescription drugs, as required by the bill, including monitoring and evaluating the impact of any state or federal developments, (ii) evaluate and make recommendations to establish a process for electronic prior authorization for surgery and other procedures in order to maximize efficiency and minimize delays; (iii) evaluate and make recommendations to establish an online process for a real-time link at the point of prescribing for any available prescription coupons; and (iv) make recommendations for any additional statutory changes required to facilitate such implementation or to establish such processes. The work group shall include relevant stakeholders, including representatives from the Virginia Association of Health Plans, the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Pharmacists Association, and other parties with an interest in the underlying technology. The work group shall report its findings and recommendations to the Chairmen of the Senate Committees on Commerce and Labor and Education and Health and the House Committees on Commerce and Energy and Health, Welfare and Institutions annually by November 1 and shall make its final report by November 1, 2025.

- 6. Budget Amendment Necessary:** Indeterminate – see Item 8.
- 7. Fiscal Impact Estimates:** Preliminary – see Item 8.
- 8. Fiscal Implications:** The State Corporation Commission (SCC) notes that there are several legislative proposals advancing that require the agency to conduct a study, write a report, or lead a work group. When considered in combination with one or more additional studies, reports, and work groups assigned to the SCC within other pending legislative proposals, the SCC estimates the fiscal impact for FY 2024 to be between \$100,000 and \$300,000, depending on the number of additional studies, reports, and work groups.
- 9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission and Secretary of Health and Human Resources
- 10. Technical Amendment Necessary:**
 - Line 92, after “§”, strike “38.2-3407.15:8” and insert “38.2-3407.15:7”.
 - Line 100, after “§”, strike “38.2-3407.15:8” and insert “38.2-3407.15:7”.
 - Line 123, after “§”, strike “38.2-3407.15:8” and insert “38.2-3407.15:7”.
- 11. Other Comments:** This bill is similar to SB 1261 as amended.