

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 617

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H.P. 453

House of Representatives, March 1, 2021

### An Act Concerning Prior Authorizations for Prescription Drugs

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Received by the Clerk of the House on February 25, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BROOKS of Lewiston.  
Cosponsored by Representatives: ARFORD of Brunswick, TEPLER of Topsham, Senators:  
BRENNER of Cumberland, SANBORN of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §4304, sub-§2, ¶D**, as enacted by PL 2019, c. 273, §1, is  
3 amended to read:

4 D. The prior authorization standards used by a carrier must be clear and readily  
5 available to enrollees, participating providers, pharmacists and other providers. With  
6 regard to prior authorization for prescription drugs, a carrier shall comply with the  
7 requirements set forth in subsection 2-B. A provider must make best efforts to provide  
8 all information necessary to evaluate a request, and the carrier must make best efforts  
9 to limit requests for additional information.

10 **Sec. 2. 24-A MRSA §4304, sub-§2-B**, as enacted by PL 2019, c. 273, §2, is  
11 amended to read:

12 **2-B. Electronic transmission of prior authorization requests.** ~~Beginning no later~~  
13 ~~than January 1, 2020, if~~ If a health plan provides coverage for prescription drugs, the carrier  
14 must accept and respond to prior authorization requests in accordance with subsection 2  
15 and this subsection through a secure electronic transmission using standards recommended  
16 by a national institute for the development of fair standards and adopted by a national  
17 council for prescription drug programs for electronic prescribing transactions. For the  
18 purposes of this subsection, transmission of a facsimile through a proprietary payer portal  
19 or by use of an electronic form is not considered electronic transmission. A carrier's  
20 electronic transmission system for prior authorization requests for prescription drugs must  
21 comply with the following.

22 A. No later than January 1, 2023, unless a waiver is granted by the superintendent, a  
23 carrier or entity under contract to a carrier shall make available to a provider in real  
24 time at the point of prescribing one or more electronic benefit tools that are capable of  
25 integrating with at least one electronic prescribing system or electronic medical record  
26 system to provide complete, accurate, timely, clinically appropriate formulary and  
27 benefit information specific to an enrollee, including, but not limited to, enrollee cost-  
28 sharing information, information on any available formulary alternatives that are  
29 clinically appropriate and information about the formulary status and the utilization  
30 review and prior authorization requirements of each drug presented. Upon a carrier's  
31 request, the superintendent may grant a waiver from the requirements of this paragraph  
32 based on a demonstration of good cause.

33 **Sec. 3. Bureau of Insurance to monitor compliance.** Beginning January 1,  
34 2022, the Department of Professional and Financial Regulation, Bureau of Insurance shall  
35 monitor compliance by carriers authorized to do business in this State with the requirements  
36 of the Maine Revised Statutes, Title 24-A, section 4304, subsection 2-B using its authority  
37 under Title 24-A, section 221. The bureau shall also request information from carriers on  
38 the adoption and usage of electronic transmission by health care providers for requesting  
39 prior authorization for prescription drugs from carriers. No later than June 1, 2023, the  
40 bureau shall submit a report to the joint standing committee of the Legislature having  
41 jurisdiction over health coverage and insurance matters on the status of compliance by  
42 carriers. If the bureau determines that a carrier is not complying with the requirements of  
43 Title 24-A, section 4304, subsection 2-B, the bureau shall take enforcement action against  
44 the carrier as appropriate. The joint standing committee of the Legislature having

1 jurisdiction over health coverage and insurance matters may report out a bill to the Second  
2 Regular Session of the 131st Legislature based on the report.

3 **SUMMARY**

4 This bill does the following.

5 1. It requires carriers to provide by January 1, 2023 at least one electronic tool to  
6 facilitate the availability of certain prescription drug benefit information in real time at the  
7 point of prescribing and when submitting prior authorization requests for prescription  
8 drugs. It also permits the Superintendent of Insurance to grant a waiver from the  
9 requirements for good cause.

10 2. It requires the Department of Professional and Financial Regulation, Bureau of  
11 Insurance to monitor compliance by carriers with the requirements of law related to  
12 electronic transmission of prior authorization requests for prescription drugs and to submit  
13 a report to the joint standing committee of the Legislature having jurisdiction over health  
14 coverage and insurance matters on the status of that compliance by June 1, 2023.