

# Virginia Health Care Legislative Update 2023

The 2023 Virginia General Assembly considered many health care-related bills during the course of the most recent session. Here are some of the more notable ones that became law July 1, 2023, unless otherwise noted.

## **Minimum Staffing Standards for Certified Nursing Facilities**

This legislation, with a delayed effective date of July 1, 2025, sets nursing staffing requirements for certified nursing facilities, imposes administrative sanctions on a certified nursing facility if it does not comply with the staffing requirements, provides for exemptions to the administrative sanctions under certain circumstances, and directs the promulgation of regulations consistent with the bill. *(HB1446/SB1339)*

## **Telemedicine and In-state Presence**

Health care providers are not required to maintain a physical presence in the Commonwealth to maintain eligibility to enroll as a Medicaid provider. Additionally, the legislation establishes that telemedicine services provider groups with health care providers duly licensed by the Commonwealth are not required to maintain an in-state service address to maintain eligibility to enroll as a Medicaid vendor or Medicaid provider group. *(HB1602/SB1418)*

## **Required Security Plan for Hospital Emergency Departments**

This directs the Board of Health to amend its regulations to require every hospital with an emergency department to establish a security plan. The plan is required to be developed using standards established by the International Association for Healthcare Security and

Safety or other industry standard, and be based on the results of a security risk assessment of each emergency department location of the hospital. It also requires that the security plan include the presence of at least one off-duty law-enforcement officer or trained security personnel who is present in the emergency department at all times as indicated to be necessary and appropriate by the security risk assessment. There is provision for a waiver from the requirement that at least one off-duty law-enforcement officer or trained security personnel be present at all times in the emergency department if the hospital demonstrates that a different level of security is necessary and appropriate for any of its emergency departments based upon findings in the security risk assessment. *(SB827)*

## **Provider Credentialing and Application Processing**

A health insurance carrier that credentials the physicians, mental health professionals, or other providers in its network is required to establish reasonable protocols and procedures for processing new provider credentialing applications. If the carrier accepts applications through an online credentialing system, the carrier must notify a new provider applicant through the online credentialing system that the application is received. If the carrier does not accept applications through an online credentialing system, the carrier must provide, within 10 days of receiving an application, notification to the new provider applicant that the application was received. Effective Jan. 1, 2024, a new provider applicant's application will be deemed complete within 30 days of the carrier receiving the application, unless the carrier has provided notice that the application is not complete. In addition, a



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carrier must approve or deny new provider applicant credentialing applications within 60 days of receiving a completed application and claims submitted according to carrier claims submittal policies must be adjudicated and paid no later than 40 days after the new provider applicant is credentialed and contracted. The Virginia Department of Health is directed to adopt emergency regulations to implement these provisions. (HB2262/SB1154)

### **Health Insurance Electronic Prior Authorization and Disclosure of Out-of-pocket Costs**

Beginning July 1, 2025, each health insurance carrier must 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 office visit; and (v) otherwise meets the requirements for contracts between carriers and participating health care providers. Carriers are prohibited 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 legislation also requires that no later than July 1, 2024, carriers must provide contact information of any third-party vendor or other entity the carrier will use to meet these requirements to any provider that requests such information. The carrier may post such information on its website to meet such requirement.

Beginning July 1, 2025, participating health care providers are required 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 real-time patient-specific benefit information, including out-of-pocket costs and more affordable medication alternatives made available by a carrier. A provider may request a waiver of compliance for undue hardship for a period not to exceed 12 months. The legislation also requires any carrier or its

pharmacy benefits manager to provide real-time patient-specific information to enrollees and contracted providers for the office visit, including any out-of-pocket costs and more affordable medication alternatives or prior authorization requirements, and to ensure that the data is accurate. Furthermore, such cost information data is required to 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. (HB1471/SB1261)

### **Health Insurance Coverage for Mobile Crisis Response Services and Residential Crisis Stabilization Units**

Health insurance carriers must provide coverage for mobile crisis response services and support and stabilization services provided in a residential crisis stabilization unit to the extent that such services are covered in other settings or modalities, regardless of any difference in billing codes. In addition, the State Corporation Commission, in consultation with the Secretary of Health and Human Resources, must convene a stakeholder work group to examine network standards for mobile crisis response services and the current availability of mobile crisis response services in the Commonwealth. The work group must make recommendations regarding (i) the definition and standards of care for mobile crisis response services and short-term residential crisis stabilization services as they apply to the commercial insurance market, including balance billing protections; (ii) the licensure or accreditation required for such services in the Commonwealth; and (iii) how cost-sharing and deductibles will be addressed as part of accessing such services for commercially insured individuals. The work group's findings must be reported to the Health Insurance Reform Commission and the Governor no later than Sept. 1, 2023. (HB2216/SB1347)

*This information is based on General Assembly Session summaries provided by Virginia's Legislative Information website [lis.virginia.gov](https://lis.virginia.gov). This article is provided as an informational service and does not constitute legal counsel or advice, which can only be rendered in the context of specific factual situations. If a legal issue should arise, please contact an attorney listed in this article, or retain the assistance of other competent legal counsel. Case results depend on a variety of factors unique to each case and results do not guarantee or predict a similar result in any future case undertaken.*

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