SANFORD HEALTH PLAN

February 15, 2023

Madam Chair and Member of the Senate Human Services Committee –

My name is Dylan Wheeler, Head of Government Affairs for Sanford Health Plan, respectfully submitting remarks in **opposition** to SB2389. To begin, as an integrated system and health plan, we openly welcome discussion around prior-authorization process because, ultimately, it leads to more efficient processes for our providers, and a more enjoyable plan experience for our members. However, we view SB2389 as a missed opportunity to dig in and find a unique North Dakota solution. SB2389 is modeled off a model law formulated by the American Medical Association and presents a one-size-fits-all proposed solution for North Dakota. As we recognize from working through a number of issues this session and those to come, North Dakota perceived problems deserve North Dakota solutions.

By way of example, this same legislation was introduced in Minnesota in 2020 and took many months of diligent negotiations between several stakeholders to come to compromise. On SB2389, while true that proponents have reached out and we have had preliminary discussions around the edges, there are and have been mixed messages on the perceived problem and whether SB2389 would remedy those issues. In order to advance purposeful, intentional, and meaningful dialogue around prior-authorization reform, we would encourage this committee to look at alternatives to scope and identify North Dakota issues in order to possibly develop North Dakota policy solutions.

In digging into the substance of the bill as it's currently broadly written, we are able to identify a handful of concerning sections that would require substantial investment to implement and comply with. For example, the bill would require a "same or similar" reviewer standard an initial denials and appeals. While on its face this may seem logical – the simple fact is health plans would not be able to staff such a requirement, and would be forced to externalize these prior-authorization processes. This would have cost impact and would have providers working with contracted entities, instead of local health plans. In addition, the bill also proposes significant adjustments for turnaround times of standard and urgent prior-authorizations. We agree that members and patients deserve timely responses to their requests; however, not all prior-authorizations are similar in terms of when that service would be provided (i.e. knee replacement 6 months out) v. a procedure schedule for the next week. In addition, the shrunken timelines will lead to missed opportunities for plans and providers to work through and collaborate on prior-authorization issues.

Finally, a very concerning section appears that would "auto-authorize" any prior-authorization that does not comply with the substance of the bill: turnaround times, same/similar specialist reviews, notification, contact physician, etc. We have concerns about member and patient safety in the event a procedure/service was to be provided without fully understanding the entirety of the patient record. In some cases, services that are subject to prior-authorization may be labeled "experimental and

investigational" – providing an "auto-authorization" process for these services should give the committee pause in examining that section. This requirement, again, will ultimately lead to higher denial rates.

I will end as I began and emphasize that as an integrated system – we welcome further discussion and debate around prior-authorization. However, SB2389 presents a one-size-fits-all national model law solution for North Dakota. Let's work together in the future and through the next interim to identify North Dakota issues and collaborate around potential North Dakota solutions.

Thank you for your time and diligent consideration.

Respectfully Submitted,

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