

December 16, 2020

Testimony of the Texas Orthopaedic Association  
Submitted by Bobby Hillert (Executive Director)  
401 W. 15<sup>th</sup> | Suite 820  
Austin, Texas 78701  
[Bobby@toa.org](mailto:Bobby@toa.org) | 214.728.7672

Dear Chairman Hancock, Chairman Oliverson, and Members of the Interim Committee:

On behalf of the Texas Orthopaedic Association (TOA), I am submitting written comments in response to the Joint Committee on Use of Prior Authorization & Utilization Review Processes' request for information. TOA was founded in 1936 as a voluntary organization of orthopaedic surgeons whose mission is to ensure outstanding musculoskeletal care for Texas patients. Over 1,400 Texas orthopaedic surgeons are TOA members.

Prior authorization plays a noticeable role in orthopaedics. From a clinical standpoint, many injuries may require prompt treatment to ensure a proper outcome. For these patients, unnecessary hurdles created by prior authorizations can be harmful as a result of delayed care. From a financial standpoint, the increasing administrative burdens surrounding prior authorization require orthopaedic practices to dedicate more and more resources to the process, and these resources only elevate the cost to operate a practice.

TOA recognizes that prior authorization has a role in our state's health care delivery system. However, it is critical for the Texas Legislature to dedicate a regular review of prior authorization to determine what changes may be necessary to enhance health care delivery in our state. The 86<sup>th</sup> Legislature's work through SB 1742 demonstrated how state lawmakers can make appropriate changes to address patient needs.

Prior authorization changes are not limited to the state government. The Centers for Medicare and Medicaid Services (CMS) proposed a rule earlier this month that would decrease repeated prior authorizations that are unnecessary, require payers to submit a decision to a physician within 72 hours in some cases, provide a reason or the denial, make public the number of procedures that are being approved, and create electronic interfaces to allow data to be easily exchanged between physicians and payers. The rule would apply to payers associated with Medicaid, the Children's Health Insurance Program, and qualified health plans.

### **TOA's Recommendations for the 87<sup>th</sup> Legislature**

TOA appreciates the opportunity to submit recommendations. TOA encourages this body to examine CMS's proposed changes to determine how they could apply to state-regulated plans.

In addition, TOA recommends that the Legislature should consider:

- **Medical Policies.** SB 1742 directed payers to post their prior authorization requirements online. However, it is not always possible for physicians to access the medical policies that are necessary to meet the prior authorization requirements. For example, some health plans rely on subscription-based guidelines, and physicians may not have access to the guidelines. TOA recommends that the Legislature should examine what medical policies should be accessible to both patients and physicians.

- **Timeline.** Many orthopaedic surgeons witness delays of three weeks and more. Unnecessary delays only result in longer time away from work until the injury or condition is treated. And if a payer requests a different code, some payers require the patient to start the prior authorization wait period over again.
- **Telephone Delays.** Many orthopaedic practices report that their employees spend many hours each day on the telephone attempting to secure a prior authorization. An online process would replace this burden.
- **Peer to Peer.** Short timelines to schedule a peer to peer after a denial and unrealistic response windows are difficult for orthopaedic surgeons who are often in the operating room. TOA recommends that the Legislature should examine the peer to peer provisions found in SB 1742 from 2019 to determine the progress that it has made in relation to ensuring that a peer of similar specialty responds to a prior authorization request. Furthermore, orthopaedic surgeons report that additional data are not requested on many peer-to-peer calls; the call simply reiterates what is in the patient's record. As a result, it appears that some peer-to-peer calls are unnecessary exercises, and the Legislature should determine how to address these situations.