

October 10, 2025

National Council of Insurance Legislators (NCOIL)
Attn: Health Insurance & Long-Term Care Issues Committee
2317 Route 34, Suite 2B
Manasquan, NJ 08736

Re: Comments on the NCOIL Prior Authorization Reform Model Act (September 2025 Draft)

Dear Members of the National Council of Insurance Legislators,

Inseparable appreciates the opportunity to comment on the *Prior Authorization Reform Model Act (September 2025 Draft)*. As a nonprofit mental health advocacy organization focused on closing the treatment gap for people with mental health and substance use conditions, Inseparable commends NCOIL for its efforts to reduce health insurance barriers to accessing needed health care services, including for mental health. Ensuring timely access to mental health and substance use treatment is especially critical, as delays or denials of care can worsen conditions and increase costs downstream.

While Inseparable supports many of the Model Act's improvements, certain revisions in the most recent draft appear to weaken protections for enrollees. We respectfully urge NCOIL to strengthen the Model Act in four areas: (1) ensuring clinically appropriate peer review, (2) requiring human review of prior authorization requests, (3) maintaining full inclusion of mental health and substance use disorder services, and (4) ensuring an even-handed definition of medical necessity.

1. Peer Reviewer Qualifications and Clinical Integrity

Inseparable supports the objective of Section 10 that appeals be reviewed by qualified "personnel." However, we believe several of the changes in the recent draft are likely to adversely affect individuals seeking mental health and substance use care.

- **Reviewers should be required to have *experience* in providing requested services.** In (A)(3), the draft changed the list of needed qualifications – training, knowledge, experience – from an "and" to an "or." Inseparable believes it is critical for reviewers to have *experience* providing the health care services under appeal. Lack of experience with the requested services is likely to subject enrollees to reviewers who lack the skills necessary to provide an appropriate review. Inseparable believes that "training" and "knowledge," which could be general and years (or even decades) old, is not enough to protect enrollees' rights and access to needed care.
- **State law should not force insurance company reviewers to consider health plans' (often flawed) clinical guidelines.** In (A)(5), Inseparable is concerned that the latest draft creates a state-level requirement that insurance company

reviewers “consider” the health plans’ clinical guidelines, which may be deeply flawed and developed in the insurer’s financial interest. We request that “the health plans’ clinical guidelines” be deleted to ensure that state laws are not effectively requiring reviewers to rely on health plans guidelines that may result in denials of needed care. Inseparable notes that removing this language would still permit an insurance company reviewer to “consider” health plans’ clinical guidelines, without having state law compel the reviewer to do so.

- **Services requested by non-physicians should not require a physician reviewer.** The deletion of (B) removes an important avenue for a licensed health care professional to review the services requested by a health care professional licensed in the same profession. This is a particularly important issue for mental health, given that many mental health services are not provided solely by physicians. For example, a psychologist or counselor should be able to review services requested by a professional of the same license. Inseparable requests that, for services requested by mental health and substance use clinicians other than physicians, reviews can be conducted by a professional of the same license who has experience providing the requested services.

These changes would help ensure that determinations are grounded in experience and expertise in the requested services and have appropriate roles for non-physician reviewers.

2. Human Reviewers of Prior Authorizations

The Model Act clearly envisions that licensed clinicians review appeals. However, since so few denials are appealed, Inseparable believes it is also important for prior authorization requests themselves to be reviewed by qualified licensed clinicians.

Therefore, Inseparable recommends language in both Section 7 and Section 8 requiring that a qualified licensed clinician review the prior authorization request.

- In Section 7, after current text, which would become (A), Inseparable recommends adding:
 - (B) All determinations of medical necessity under this section shall be conducted by a physician or other licensed health care professional with appropriate clinical expertise in the same or a similar specialty as the treating health care professional or provider. The reviewer shall conduct a thorough and clinically informed evaluation of the request, taking into account the enrollee’s specific clinical circumstances, the information provided by the treating health care professional or provider, and generally accepted standards of care.
- In Section 8, Inseparable recommends adding after (B):
 - (C) All determinations of medical necessity under this section shall be conducted by a physician or other licensed health care professional with appropriate clinical expertise in the same or a similar specialty as the

treating health care professional or provider. The reviewer shall conduct a thorough and clinically informed evaluation of the request, taking into account the enrollee's specific clinical circumstances, the information provided by the treating health care professional or provider, and generally accepted standards of care, consistent with the urgency of the enrollee's condition. The reviewing professional shall be reasonably available for direct discussion with the treating health care professional or provider before any adverse determination is issued.

3. Include Language and Reporting on Mental Health Care

Frequently, health care / coverage statutes are written from a medical/surgical-centric perspective, resulting in provisions not adequately protecting individuals with mental health or substance use disorders. Inseparable recommends adjustments to the Model Act to ensure that the bill's protections clearly apply – and are relevant to – mental health and substance use disorders.

- **Ensure the definition of “emergency medical condition” does not effectively exclude mental health and substance use disorders.** Inseparable strongly believes the current language should be strengthened to address unique characteristics of these conditions. Inseparable requests the following changes to the current draft language¹:

(F) "Emergency medical condition" means a medical condition, including a behavioral health condition, manifesting itself by acute symptoms of sufficient severity, including, but not limited to, severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in:

(i) Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part.

'Emergency medical condition' includes an emergency behavioral health condition, which means a mental health or substance use disorder manifesting by acute symptoms of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in danger to self or others, serious functional impairment, or serious deterioration in the individual's mental or physical health.

¹ Precedence for the language below can be found at: 215 ILCS 134/10 (IL), 18 Del. C. § 3349(b) (DE), RCW 48.43.005(9) (WA), and C.R.S. § 10-16-704(1.5)(a)(II) (CO). Additionally, the U.S. Department of Labor has taken enforcement action for parity violations for not treating mental health crises as “emergency medical conditions.”

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- **Ensure data transparency of mental health / substance use disorders.** Inseparable supports annual reporting on prior authorization, which is a meaningful step toward transparency. However, without data reporting broken out by mental health, substance use disorders, and medical/surgical, comparisons will be impossible, including as part of insurance departments' analysis of insurers' compliance with the federal Mental Health Parity and Addiction Equity Act (MHPAEA). To allow for the critical comparisons, Inseparable recommends that all data be disaggregated by mental health conditions, substance use disorders, and medical/surgical conditions and by each MHPAEA classification of care (in-network inpatient, out-of-network inpatient, in-network outpatient, out-of-network outpatient, emergency, and prescription drugs).

Additionally, Inseparable supports restoring both raw numbers (in addition to percentages) and reporting requirements relating to post-service utilization reviews, which significantly burden providers and harm patients (i.e., Section 18 (A)(8)–(10)). As a statistical matter, the deletion of raw numbers in reported data will make it *impossible* for insurance departments to assess the validity of reported percentages, significantly undermining the value of prior authorization reporting and facilitating spurious conclusions.

Finally, Inseparable recommends annual reporting be broken out by service or drug. Without disaggregated data, insurance departments and legislatures will be left unable to identify trends and where prior authorization may inhibit access to needed care. Therefore, in addition to restoring (A)(8)–(10), Inseparable recommends adding the following after (A) and relettering accordingly thereafter:

(B) To enable meaningful comparison of mental health, substance use disorder, and medical/surgical services and to support department oversight of compliance with state and federal parity requirements:

- (1) All data reported under this section shall be disaggregated by mental health conditions, substance use disorders, and medical/surgical conditions and by each classification of benefits defined under the federal Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. 1185a; 42 U.S.C. 300gg-26; 26 U.S.C. 9812), including in-network inpatient, out-of-network inpatient, in-network outpatient, out-of-network outpatient, emergency care, and prescription drugs.*
- (2) Reports shall include both the number and percentage for each data element and any other information the department considers necessary to ensure the data are accurate and reliable.*
- (3) The department may require additional reporting detail necessary to evaluate prior authorization patterns or disparities in access to care.*

4. Even-Handed Medical Necessity Definition

In Section (4), the definition of “medical necessity” has a significant oversight that disadvantages patients and families. In the second part of the requirement for medical necessity (ii), the language says: “and not primarily for the convenience of the patient, treating physician, other health care professional, caregiver, family member or other interested party.”

While Inseparable does not inherently object to this “convenience” language, the definition puts no limit on the insurer determining medical necessity based on its (or the purchaser’s) *economic benefit*. This asymmetry has the effect of putting a thumb on the scale in favor of insurers. The solution is simple – add a clause to (ii) relating to the services not being in primarily the economic interest of the insurer. Inseparable suggests the following change to add “economic benefit” for all parties and to clarify that “other interested party” includes purchases, insurers, or entities acting on either’s behalf:

(ii) Clinically appropriate in terms of type, frequency, extent, site and duration and are considered effective for the patient's illness, injury or disease; and not primarily for the convenience or economic benefit of the patient, treating physician, other health care professional, caregiver, family member or other interested party, including the purchaser, health insurance issuer, or any entity acting on behalf of either, and focused on what is best for the patient's health outcome.

This small adjustment is consistent with the medical necessity definitions in a number of states, including Georgia, Montana, and Illinois.

Thank you for the opportunity to comment on NCOIL’s efforts to improve our prior authorization system. With adjustments, Inseparable believes the Model Bill can strengthen clinical oversight, ensure human review, improve data transparency, and apply a parity-conscious approach to increase access to care. If you have any questions, please reach out to me at david@inseparable.us.

Sincerely,



David Lloyd
Chief Policy Officer