

1-1 By: Thompson (Senate Sponsor - Harris) H.B. No. 1163
1-2 (In the Senate - Received from the House May 5, 2003;
1-3 May 7, 2003, read first time and referred to Committee on State
1-4 Affairs; May 23, 2003, reported favorably, as amended, by the
1-5 following vote: Yeas 6, Nays 0; May 23, 2003, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Harris

1-7 Amendment for H.B. No. 1163 as engrossed:

1-8 Repeal Section 6 and add new sections to read as follows:

1-9 SECTION 6. Subsection (B), Section 2, Chapter 397, Acts of
1-10 the 54th Legislature, Regular Session, 1955 (Article 3.70-2,
1-11 Vernon's Texas Insurance Code), is amended to read as follows:

1-12 (B) No policy of accident and sickness insurance shall make
1-13 benefits contingent upon treatment or examination by a particular
1-14 practitioner or by particular practitioners of the healing arts
1-15 hereinafter designated unless such policy contains a provision
1-16 designating the practitioner or practitioners who will be
1-17 recognized by the insurer and those who will not be recognized by
1-18 the insurer. Such provision may be located in the "Exceptions" or
1-19 "Exceptions and Reductions" provisions, or elsewhere in the policy,
1-20 or by endorsement attached to the policy, at the insurer's option.
1-21 In designating the practitioners who will and will not be
1-22 recognized, such provision shall use the following terms: Doctor
1-23 of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of
1-24 Chiropractic, Doctor of Optometry, Doctor of Podiatry, Licensed
1-25 Audiologist, Licensed Speech-language Pathologist, Doctor in
1-26 Psychology, Licensed Master Social Worker--Advanced Clinical
1-27 Practitioner, Licensed Dietitian, Licensed Professional Counselor,
1-28 Licensed Marriage and Family Therapist, Licensed Chemical
1-29 Dependency Counselor, Licensed Hearing Instrument Fitter and
1-30 Dispenser, Advanced Practice Nurse, Physician Assistant, Licensed
1-31 Occupational Therapist, Licensed Physical Therapist, Licensed
1-32 Acupuncturist, Licensed Psychological Associate, ~~and~~ Licensed
1-33 Surgical Assistant, and Licensed Athletic Trainer.

1-34 For purposes of this Act, such designations shall have the
1-35 following meanings:

1-36 Doctor of Medicine: One licensed by the Texas State Board of
1-37 Medical Examiners on the basis of the degree "Doctor of Medicine";

1-38 Doctor of Osteopathy: One licensed by the Texas State Board
1-39 of Medical Examiners on the basis of the degree of "Doctor of
1-40 Osteopathy";

1-41 Doctor of Dentistry: One licensed by the State Board of
1-42 Dental Examiners;

1-43 Doctor of Chiropractic: One licensed by the Texas Board of
1-44 Chiropractic Examiners;

1-45 Doctor of Optometry: One licensed by the Texas Optometry
1-46 Board;

1-47 Doctor of Podiatry: One licensed by the Texas State Board of
1-48 Podiatric Medical Examiners;

1-49 Licensed Audiologist: One with a master's or doctorate
1-50 degree in audiology from an accredited college or university and
1-51 who is licensed as an audiologist by the State Board of Examiners
1-52 for Speech-Language Pathology and Audiology;

1-53 Licensed Speech-language Pathologist: One with a master's or
1-54 doctorate degree in speech pathology or speech-language pathology
1-55 from an accredited college or university and who is licensed as a
1-56 speech-language pathologist by the State Board of Examiners for
1-57 Speech-Language Pathology and Audiology;

1-58 Doctor in Psychology: One licensed by the Texas State Board
1-59 of Examiners of Psychologists and certified as a Health Service
1-60 Provider;

1-61 Licensed Master Social Worker--Advanced Clinical
1-62 Practitioner: One licensed by the Texas State Board of Social
1-63 Worker Examiners as a Licensed Master Social Worker with the order
1-64 of recognition of Advanced Clinical Practitioner;

2-1 Licensed Dietitian: One licensed by the Texas State Board of
 2-2 Examiners of Dietitians;
 2-3 Licensed Professional Counselor: One licensed by the Texas
 2-4 State Board of Examiners of Professional Counselors;
 2-5 Licensed Marriage and Family Therapist: One licensed by the
 2-6 Texas State Board of Examiners of Marriage and Family Therapists;
 2-7 Licensed Chemical Dependency Counselor: One licensed by the
 2-8 Texas Commission on Alcohol and Drug Abuse;
 2-9 Licensed Hearing Instrument Fitter and Dispenser: One
 2-10 licensed by the State Committee of Examiners in the Fitting and
 2-11 Dispensing of Hearing Instruments;
 2-12 Advanced Practice Nurse: One licensed by the Board of Nurse
 2-13 Examiners as a registered nurse and recognized by that board as an
 2-14 advanced practice nurse;
 2-15 Physician Assistant: One licensed by the Texas State Board
 2-16 of Physician Assistant Examiners;
 2-17 Licensed Occupational Therapist: One licensed by the Texas
 2-18 Board of Occupational Therapy Examiners;
 2-19 Licensed Physical Therapist: One licensed by the Texas Board
 2-20 of Physical Therapy Examiners;
 2-21 Licensed Acupuncturist: One licensed by the Texas State
 2-22 Board of Medical Examiners as an acupuncturist;
 2-23 Licensed Psychological Associate: One licensed by the Texas
 2-24 State Board of Examiners of Psychologists and practicing under the
 2-25 supervision of a licensed psychologist; ~~and~~
 2-26 Licensed Surgical Assistant: One licensed by the Texas State
 2-27 Board of Medical Examiners as a surgical assistant; and
 2-28 Licensed Athletic Trainer: One licensed by the Advisory
 2-29 Board of Athletic Trainers.
 2-30 SECTION 7. Section 1, Article 21.52, Insurance Code, as
 2-31 amended by Chapters 812 and 1014, Acts of the 77th Legislature,
 2-32 Regular Session, 2001, is amended to read as follows:
 2-33 Sec. 1. DEFINITIONS. As used in this article:
 2-34 (a) "health insurance policy" means any individual,
 2-35 group, blanket, or franchise insurance policy, insurance
 2-36 agreement, or group hospital service contract, providing benefits
 2-37 for medical or surgical expenses incurred as a result of an accident
 2-38 or sickness;
 2-39 (b) "doctor of podiatric medicine" includes D.P.M.,
 2-40 podiatrist, doctor of surgical chiropody, D.S.C. and chiropodist;
 2-41 (c) "doctor of optometry" includes optometrist,
 2-42 doctor of optometry, and O.D.;
 2-43 (d) "doctor of chiropractic" means a person who is
 2-44 licensed by the Texas Board of Chiropractic Examiners to practice
 2-45 chiropractic;
 2-46 (e) "licensed dentist" means a person who is licensed
 2-47 to practice dentistry by the State Board of Dental Examiners;
 2-48 (f) "licensed audiologist" means a person who has
 2-49 received a master's or doctorate degree in audiology from an
 2-50 accredited college or university and is licensed as an audiologist
 2-51 by the State Board of Examiners for Speech-Language Pathology and
 2-52 Audiology;
 2-53 (g) "licensed speech-language pathologist" means a
 2-54 person who has received a master's or doctorate degree in
 2-55 speech-language pathology from an accredited college or university
 2-56 and is licensed as a speech-language pathologist by the State Board
 2-57 of Examiners for Speech-Language Pathology and Audiology;
 2-58 (h) "licensed master social worker--advanced clinical
 2-59 practitioner" means a person who is licensed by the Texas State
 2-60 Board of Social Worker Examiners as a licensed master social worker
 2-61 with the order of recognition of advanced clinical practitioner;
 2-62 (i) "licensed dietitian" means a person who is
 2-63 licensed by the Texas State Board of Examiners of Dietitians;
 2-64 (j) "licensed professional counselor" means a person
 2-65 who is licensed by the Texas State Board of Examiners of
 2-66 Professional Counselors;
 2-67 (k) "psychologist" means a person licensed to practice
 2-68 psychology by the Texas State Board of Examiners of Psychologists;
 2-69 (l) "licensed marriage and family therapist" means a

3-1 person who is licensed by the Texas State Board of Examiners of
 3-2 Marriage and Family Therapists;
 3-3 (m) "licensed chemical dependency counselor" means a
 3-4 person who is licensed by the Texas Commission on Alcohol and Drug
 3-5 Abuse;
 3-6 (n) "licensed hearing instrument fitter and
 3-7 dispenser" means a person who is licensed by the State Committee of
 3-8 Examiners in the Fitting and Dispensing of Hearing Instruments;
 3-9 (o) "licensed psychological associate" means a person
 3-10 who is licensed by the Texas State Board of Examiners of
 3-11 Psychologists and who practices under the supervision of a licensed
 3-12 psychologist;
 3-13 (p) "occupational therapist" means a person who is
 3-14 licensed to practice occupational therapy by the Texas Board of
 3-15 Occupational Therapy Examiners;
 3-16 (q) "physical therapist" means a person who practices
 3-17 physical therapy and is licensed by the Texas Board of Physical
 3-18 Therapy Examiners;
 3-19 (r) "advanced practice nurse" means a person licensed
 3-20 by the Board of Nurse Examiners and recognized by that board as an
 3-21 advanced practice nurse;
 3-22 (s) "licensed acupuncturist" means a person licensed
 3-23 to practice acupuncture by the Texas State Board of Medical
 3-24 Examiners;
 3-25 (t) "physician assistant" means a person licensed by
 3-26 the Texas State Board of Physician Assistant Examiners; ~~and~~
 3-27 (u) "nurse first assistant" has the meaning assigned
 3-28 by Section 301.1525, Occupations Code; ~~[-]~~
 3-29 (v) ~~[-(u)]~~ "Surgical assistant" means a person
 3-30 licensed by the Texas State Board of Medical Examiners as a surgical
 3-31 assistant; and
 3-32 (w) "licensed athletic trainer" means a person
 3-33 licensed by the Advisory Board of Athletic Trainers.
 3-34 SECTION 8. Subsection (a), Section 3, Article 21.52,
 3-35 Insurance Code, as amended by Chapters 812 and 1014, Acts of the
 3-36 77th Legislature, Regular Session, 2001, is amended to read as
 3-37 follows:
 3-38 (a) Any person who is issued, who is a party to, or who is a
 3-39 beneficiary under any health insurance policy delivered, renewed,
 3-40 or issued for delivery in this state by any insurance company,
 3-41 association, or organization to which this article applies may
 3-42 select:
 3-43 (1) a licensed doctor of podiatric medicine, a
 3-44 licensed dentist, or a doctor of chiropractic to perform the
 3-45 medical or surgical services or procedures scheduled in the policy
 3-46 which fall within the scope of the license of that practitioner;
 3-47 (2) a licensed doctor of optometry to perform the
 3-48 services or procedures scheduled in the policy which fall within
 3-49 the scope of the license of that doctor of optometry;
 3-50 (3) an occupational therapist to provide the services
 3-51 scheduled in the policy which fall within the scope of the license
 3-52 of that occupational therapist;
 3-53 (4) a physical therapist to provide the services
 3-54 scheduled in the policy which fall within the scope of the license
 3-55 of that physical therapist;
 3-56 (5) a licensed audiologist to measure hearing for the
 3-57 purpose of determining the presence or extent of a hearing loss and
 3-58 to provide aural rehabilitation services to a person with a hearing
 3-59 loss if those services or procedures are scheduled in the policy;
 3-60 (6) a licensed speech-language pathologist to
 3-61 evaluate speech and language and to provide habilitative and
 3-62 rehabilitative services to restore speech or language loss or to
 3-63 correct a speech or language impairment if those services or
 3-64 procedures are scheduled in the policy;
 3-65 (7) a licensed master social worker--advanced
 3-66 clinical practitioner to provide the services that fall within the
 3-67 scope of the license of such certified practitioner and which are
 3-68 specified as services within the terms of the policy of insurance,
 3-69 including the provision of direct, diagnostic, preventive, or

4-1 clinical services to individuals, families, and groups whose
 4-2 functioning is threatened or affected by social or psychological
 4-3 stress or health impairment, if those services or procedures are
 4-4 scheduled in the policy;

4-5 (8) a licensed dietitian including a provisional
 4-6 licensed dietitian under a licensed dietitian's supervision to
 4-7 provide the services that fall within the scope of the license of
 4-8 that dietitian if those services are scheduled in the policy;

4-9 (9) a licensed professional counselor to provide the
 4-10 services that fall within the scope of the license of that
 4-11 professional if those services are scheduled in the policy;

4-12 (10) a licensed marriage and family therapist to
 4-13 provide the services that fall within the scope of the license of
 4-14 that professional if those services are scheduled in the policy;

4-15 (11) a psychologist to perform the services or
 4-16 procedures scheduled in the policy that fall within the scope of the
 4-17 license of that psychologist;

4-18 (12) a licensed chemical dependency counselor to
 4-19 perform the services or procedures scheduled in the policy that
 4-20 fall within the scope of the license of that practitioner;

4-21 (13) a licensed acupuncturist to perform the services
 4-22 or procedures scheduled in the policy that fall within the scope of
 4-23 the license of that practitioner;

4-24 (14) an advanced practice nurse to provide the
 4-25 services scheduled in the policy that fall within the scope of the
 4-26 license of that practitioner;

4-27 (15) a physician assistant to provide the services
 4-28 scheduled in the policy that fall within the scope of the license of
 4-29 that practitioner;

4-30 (16) a licensed hearing instrument fitter and
 4-31 dispenser to provide the services or procedures scheduled in the
 4-32 policy that fall within the scope of the license of that
 4-33 practitioner;

4-34 (17) a licensed psychological associate to provide the
 4-35 services that fall within the scope of the license of that
 4-36 professional if those services are scheduled in the policy; ~~or~~

4-37 (18) ~~(17)~~ a licensed surgical assistant to provide
 4-38 the services or procedures scheduled in the policy that fall within
 4-39 the scope of the license of that practitioner; ~~or~~

4-40 (19) ~~(18)~~ a nurse first assistant to provide the
 4-41 services scheduled in the policy that:

4-42 (A) fall within the scope of the license of that
 4-43 practitioner; and

4-44 (B) are requested by the physician whom the nurse
 4-45 is assisting; or

4-46 (20) a licensed athletic trainer to provide the
 4-47 services that fall within the scope of the license of that
 4-48 professional if those services are scheduled in the policy.

4-49 SECTION 9. Subsection (c), Section 3, Article 21.52,
 4-50 Insurance Code, is amended to read as follows:

4-51 (c) The payment or reimbursement by the insurance company,
 4-52 association, or organization for services or procedures in
 4-53 accordance with the payment schedule or the payment provisions in
 4-54 the policy shall not be denied because the same were performed by a
 4-55 licensed doctor of podiatric medicine, a licensed doctor of
 4-56 optometry, a licensed doctor of chiropractic, a licensed dentist,
 4-57 an occupational therapist, a physical therapist, a licensed
 4-58 audiologist, a licensed speech-language pathologist, a licensed
 4-59 master social worker--advanced clinical practitioner, a licensed
 4-60 dietitian, a licensed professional counselor, a licensed marriage
 4-61 and family therapist, a psychologist, a licensed psychological
 4-62 associate, a licensed chemical dependency counselor, an advanced
 4-63 practice nurse, a nurse first assistant, a physician assistant, a
 4-64 licensed acupuncturist, ~~or~~ a licensed hearing instrument fitter
 4-65 and dispenser, or a licensed athletic trainer.

4-66 SECTION 10. Subsection (d), Section 3, Article 21.52,
 4-67 Insurance Code, as amended by Chapters 812 and 1014, Acts of the
 4-68 77th Legislature, Regular Session, 2001, is amended to read as
 4-69 follows:

5-1 (d) There shall not be any classification, differentiation,
 5-2 or other discrimination in the payment schedule or the payment
 5-3 provisions in a health insurance policy, nor in the amount or manner
 5-4 of payment or reimbursement thereunder, between scheduled services
 5-5 or procedures when performed by a doctor of podiatric medicine, a
 5-6 doctor of optometry, a doctor of chiropractic, a licensed dentist,
 5-7 an occupational therapist, a physical therapist, a licensed
 5-8 athletic trainer, a licensed audiologist, a licensed
 5-9 speech-language pathologist, a licensed master social
 5-10 worker--advanced clinical practitioner, a licensed dietitian, a
 5-11 licensed professional counselor, a licensed marriage and family
 5-12 therapist, a psychologist, a licensed psychological associate, a
 5-13 licensed chemical dependency counselor, an advanced practice nurse
 5-14 to provide the services scheduled in the policy, a nurse first
 5-15 assistant to provide the services scheduled in the policy and
 5-16 requested by the physician whom the nurse is assisting, a physician
 5-17 assistant to provide the services scheduled in the policy, a
 5-18 licensed acupuncturist, or a licensed hearing instrument fitter and
 5-19 dispenser which fall within the scope of that practitioner's
 5-20 license or certification and the same services or procedures when
 5-21 performed by any other practitioner of the healing arts whose
 5-22 services or procedures are covered by the policy. However, a health
 5-23 insurance policy may provide for a different amount of payment or
 5-24 reimbursement for scheduled services or procedures when performed
 5-25 by an advanced practice nurse, a nurse first assistant, licensed
 5-26 surgical assistant, or physician assistant provided the
 5-27 reimbursement methodology used to calculate the payment for the
 5-28 service or procedure is the same methodology used to calculate the
 5-29 payment when the service or procedure is provided by a physician.

5-30 SECTION 11. This takes effect September 1, 2003, and
 5-31 applies only to a health insurance policy or contract or an evidence
 5-32 of coverage that is delivered, issued for delivery, or renewed on or
 5-33 after January 1, 2004. A health insurance policy or contract or an
 5-34 evidence of coverage that is delivered, issued for delivery, or
 5-35 renewed before January 1, 2004, is governed by the law as it existed
 5-36 immediately before the effective date of this Act, and that law is
 5-37 continued in effect for that purpose.

5-38 A BILL TO BE ENTITLED
 5-39 AN ACT

5-40 relating to contracts between certain health care providers and
 5-41 health benefit plans.

5-42 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5-43 SECTION 1. Section 3(b), Article 3.70-3C, Insurance Code,
 5-44 as added by Chapter 1024, Acts of the 75th Legislature, Regular
 5-45 Session, 1997, is amended by adding Subdivision (5) to read as
 5-46 follows:

5-47 (5) An insurer may not withhold a designation to a
 5-48 podiatrist described by Subsection (p) of this section.

5-49 SECTION 2. Section 3, Article 3.70-3C, Insurance Code, as
 5-50 added by Chapter 1024, Acts of the 75th Legislature, Regular
 5-51 Session, 1997, is amended by adding Subsection (p) to read as
 5-52 follows:

5-53 (p) An insurer may not withhold the designation of preferred
 5-54 provider to a podiatrist licensed by the Texas State Board of
 5-55 Podiatric Medical Examiners who joins the professional practice of
 5-56 a contracted preferred provider, applies to the insurer for
 5-57 designation as a preferred provider, and complies with the terms
 5-58 and conditions of eligibility to be a preferred provider. A
 5-59 podiatrist designated as a preferred provider under this subsection
 5-60 must comply with the terms of the preferred provider contract used
 5-61 by the insurer or the insurer's network provider.

5-62 SECTION 3. Section 843.303, Insurance Code, as effective
 5-63 June 1, 2003, is amended by adding Subsection (c) to read as
 5-64 follows:

5-65 (c) A health maintenance organization may not deny a
 5-66 contract to a podiatrist described by Section 843.319.

5-67 SECTION 4. Subchapter I, Chapter 843, Insurance Code, as

6-1 effective June 1, 2003, is amended by adding Section 843.319 to read
6-2 as follows:

6-3 Sec. 843.319. CERTAIN REQUIRED CONTRACTS. A health
6-4 maintenance organization may not deny a contract to a podiatrist
6-5 licensed by the Texas State Board of Podiatric Medical Examiners
6-6 who joins the professional practice of a contracting physician or
6-7 provider, satisfies the application procedures of the health
6-8 maintenance organization, and meets the qualification and
6-9 credentialing requirements for contracting with the health
6-10 maintenance organization.

6-11 SECTION 5. Section 3(p), Article 3.70-3C, and Section
6-12 843.319, Insurance Code, as added by this Act, apply only to an
6-13 application for designation as a preferred provider or an
6-14 application to contract with a health maintenance organization
6-15 submitted to an insurer or health maintenance organization on or
6-16 after September 1, 2003. An application submitted before that date
6-17 is governed by the law as it existed immediately before the
6-18 effective date of this Act, and that law is continued in effect for
6-19 that purpose.

6-20 SECTION 6. This Act takes effect September 1, 2003.

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