

By: Giddings

H.B. No. 3590

A BILL TO BE ENTITLED

AN ACT

relating to medical management issues and average weekly wage benchmarks in the Texas workers' compensation system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. INFORMATION EXCHANGE

SECTION 1.01. Section 413.0511, Labor Code, is amended by amending subsection (b)(6) to read as follows:

Sec. 413.0511. MEDICAL ADVISOR.

(b) The medical advisor shall make recommendations regarding the adoption of rules to:

(6) pursuant to Section 413.012, 413.0513 and 413.0514, receive, and share with the medical quality review panel established under Section 413.0512, confidential information or information to which access is otherwise restricted by law from the Texas State Board of Medical Examiners, the Texas Board of Chiropractic Examiners, or other occupational licensing boards regarding ~~[disciplinary actions imposed on]~~ a physician, chiropractor, or other type of doctor who applies for registration or is registered with the commission on the list of approved doctors; and

(7) determine minimal modifications to the reimbursement methodology and model used by the Medicare system as necessary to meet occupational injury requirements.

SECTION 1.02. Section 413.0513, Labor Code, is amended by

1 amending subsections (a) and (b) and adding Subsection (c) to read  
2 as follows:

3           Sec. 413.0513. CONFIDENTIALITY REQUIREMENTS.           (a)  
4 Information collected, assembled, or maintained by or on behalf of  
5 the commission under Section 413.0511 or 413.0512 is an  
6 investigation file under Section 402.092. [~~and~~] Information  
7 collected, assembled, or maintained by or on behalf of the  
8 commission under Section 413.0511 or 413.0512 that is confidential  
9 information or information to which access is otherwise restricted  
10 under law, may not be disclosed under Section 413.0511 or 413.0512  
11 except:

- 12                   (1) in a criminal proceeding;
- 13                   (2) in a hearing conducted by or on behalf of the  
14 commission;
- 15                   (3) in a hearing conducted by another licensing or  
16 regulatory authority, as provided in the interagency agreement; or
- 17                   (4) on a finding of good cause in an administrative or  
18 judicial proceeding involving the enforcement of this subtitle or  
19 in a disciplinary action under this subtitle.

20           (b) Confidential information and information to which  
21 access is otherwise restricted by law developed by or on behalf of  
22 the commission under Section 413.0511 or 413.0512 is not subject to  
23 discovery or court subpoena in any action other than:

- 24                   (1) an action to enforce this subtitle brought by the  
25 commission, an appropriate licensing or regulatory agency, or an  
26 appropriate enforcement authority; or
- 27                   (2) a criminal proceeding.

1       (c) Any information sent from the Texas State Board of  
2 Medical Examiners to the commission that is confidential or to  
3 which access is otherwise restricted under law is not subject to  
4 disclosure under Subsection 413.0513.

5       SECTION 1.03. Chapter 413, Subchapter E, Labor Code, is  
6 amended by adding section 413.0514 and section 413.0515 to read as  
7 follows:

8       Sec. 413.0514. INFORMATION SHARING WITH OCCUPATIONAL  
9 LICENSING BOARDS. (a) This section applies only to information  
10 held by or for the commission, the Texas State Board of Medical  
11 Examiners, and Texas Board of Chiropractic Examiners that relates  
12 to a person who is licensed or otherwise regulated by any of those  
13 state agencies.

14       (b) The commission and the Texas State Board of Medical  
15 Examiners on request or on its own initiative, may share with each  
16 other confidential information or information to which access is  
17 otherwise restricted by law. The commission and the Texas State  
18 Board of Medical Examiners shall cooperate with and assist each  
19 other when either agency is conducting an investigation by  
20 providing information to each other that the sending agency  
21 determines is relevant to the investigation. Except as provided by  
22 this section, confidential information that is shared under this  
23 section remains confidential under law and legal restrictions on  
24 access to the information remain in effect. Furnishing information  
25 by the Texas State Board of Medical Examiners to the commission  
26 under this Subsection does not constitute a waiver of privilege or  
27 confidentiality as established by law.

1        (c) Information that is received by a state agency the  
2 commission from the Texas State Board of Medical Examiners-remains  
3 confidential, and may not be disclosed by the state agency  
4 commission-except as necessary to further the investigation-, and  
5 shall be exempt from disclosure under Labor Code Section 402.092  
6 and Section 413.0513.

7        (d) The commission and the Texas Board of Chiropractic  
8 Examiners on request or on its own initiative, may share with each  
9 other confidential information or information to which access is  
10 otherwise restricted by law. The commission and the Texas Board of  
11 Chiropractic Examiners shall cooperate with and assist each other  
12 when either agency is conducting an investigation by providing  
13 information to each other that is relevant to the investigation.  
14 Except as provided by this section, confidential information that  
15 is shared under this section remains confidential under law and  
16 legal restrictions on access to the information remain in effect  
17 unless the agency sharing the information approves use of the  
18 information by the receiving agency for enforcement purposes.

19        (e) The commission and the Texas State Board of Medical  
20 Examiners shall provide information to each other on all  
21 disciplinary actions taken.

22        (f) The commission and the Texas Board of Chiropractic  
23 Examiners shall provide information to each other on all  
24 disciplinary actions taken.

25        Sec. 413.0515. REPORTS OF PHYSICIAN OR CHIROPRACTOR  
26 VIOLATIONS. (a) If the commission or the Texas State Board of  
27 Medical Examiners discovers an act or omission by a physician that

1 may constitute a felony, a misdemeanor involving moral turpitude, a  
2 violation of a state or federal narcotics or controlled substance  
3 law, an offense involving fraud or abuse under the Medicare or  
4 Medicaid program, or a violation of this subtitle, each shall  
5 immediately report that act or omission to the other.

6 (b) If the commission or the Texas board of Chiropractic  
7 Examiners discovers an act or omission by a chiropractor that may  
8 constitute a felony, a misdemeanor involving moral turpitude, a  
9 violation of a state or federal narcotics or controlled substance  
10 law, an offense involving fraud or abuse under the Medicare or  
11 Medicaid program, or a violation of this subtitle, each shall  
12 immediately report that act or omission to the other.

13 SECTION 1.04. Section 160.006, Subsection (a), Occupations  
14 Code, is amended to read as follows:

15 Sec. 160.006. BOARD CONFIDENTIALITY. (a) A record,  
16 report, or other information received and maintained by the board  
17 under this subchapter or Subchapter B, including any material  
18 received or developed by the board during an investigation or  
19 hearing and the identity of, and reports made by, a physician  
20 performing or supervising compliance monitoring for the board, is  
21 confidential. The board may disclose this information only:

22 (1) in a disciplinary hearing before the board or in a  
23 subsequent trial or appeal of a board action or order;

24 (2) to the physician licensing or disciplinary  
25 authority of another jurisdiction, to a local, state, or national  
26 professional medical society or association, or to a medical peer  
27 review committee located inside or outside this state that is

1 concerned with granting, limiting, or denying a physician hospital  
2 privileges;

3 (3) under a court order; ~~[or]~~

4 (4) to qualified personnel for bona fide research or  
5 educational purposes, if personally identifiable information  
6 relating to any physician or other individual is first deleted; or

7 (5) to the Texas Workers' Compensation Commission  
8 pursuant to Labor Code Section 413.0514.

9 ARTICLE 2. MEDICAL QUALITY REVIEW PANEL IMMUNITY

10 SECTION 2.01. Section 413.0512, Labor Code, is amended by  
11 amending Subsection (d) to read as follows:

12 Sec. 413.0512. MEDICAL QUALITY REVIEW PANEL.

13 (d) A person who serves on the medical quality review panel  
14 is immune from civil liability ~~[not liable on a civil action]~~ for an  
15 act performed or recommendation made within the scope of the  
16 functions of the panel, if that member acts without malice and in  
17 the reasonable belief that the action or recommendation is  
18 warranted by the facts known to that person. A person who serves on  
19 the panel ~~[performed in good faith as a member of the panel and]~~ is  
20 entitled to the same protections afforded a commission member under  
21 Section 402.010, in the event of a civil action brought against a  
22 member of the panel arising from the member's participation on the  
23 panel.

24 ARTICLE 3. STATE AVERAGE WEEKLY WAGE

25 SECTION 3.01. Section 408.047, Labor Code, is amended to  
26 read as follows:

27 Sec. 408.047. STATE AVERAGE WEEKLY WAGE. The state average

1 weekly wage for the fiscal year beginning September 1, 2003 and  
2 ending August 31, 2004 is \$537, and for the fiscal year beginning  
3 September 1, 2004 and ending August 31, 2005 is \$539 [~~equals the~~  
4 ~~annual average of the average weekly wage of manufacturing~~  
5 ~~production workers in this state, as determined by the Texas~~  
6 ~~Employment Commission~~].

7 ARTICLE 4. EFFECTIVE DATE

8 SECTION 4.01. This Act takes effect immediately if it  
9 receives a vote of two-thirds of all the members elected to each  
10 house, as provided by Section 39, Article III, Texas Constitution.  
11 If this Act does not receive the vote necessary for immediate  
12 effect, this Act takes effect September 1, 2003.