

By: Armbrister

S.B. No. 382

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to reimbursement under certain health benefit plans for  
3 services provided by licensed athletic trainers.

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

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

8 (B) No policy of accident and sickness insurance shall make  
9 benefits contingent upon treatment or examination by a particular  
10 practitioner or by particular practitioners of the healing arts  
11 hereinafter designated unless such policy contains a provision  
12 designating the practitioner or practitioners who will be  
13 recognized by the insurer and those who will not be recognized by  
14 the insurer. Such provision may be located in the "Exceptions" or  
15 "Exceptions and Reductions" provisions, or elsewhere in the policy,  
16 or by endorsement attached to the policy, at the insurer's option.  
17 In designating the practitioners who will and will not be  
18 recognized, such provision shall use the following terms: Doctor  
19 of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of  
20 Chiropractic, Doctor of Optometry, Doctor of Podiatry, Licensed  
21 Audiologist, Licensed Speech-language Pathologist, Doctor in  
22 Psychology, Licensed Master Social Worker--Advanced Clinical  
23 Practitioner, Licensed Dietitian, Licensed Professional Counselor,  
24 Licensed Marriage and Family Therapist, Licensed Chemical

1 Dependency Counselor, Licensed Hearing Instrument Fitter and  
2 Dispenser, Advanced Practice Nurse, Physician Assistant, Licensed  
3 Occupational Therapist, Licensed Physical Therapist, Licensed  
4 Acupuncturist, Licensed Psychological Associate, [~~and~~] Licensed  
5 Surgical Assistant, and Licensed Athletic Trainer.

6 For purposes of this Act, such designations shall have the  
7 following meanings:

8 Doctor of Medicine: One licensed by the Texas State Board of  
9 Medical Examiners on the basis of the degree "Doctor of Medicine";

10 Doctor of Osteopathy: One licensed by the Texas State Board  
11 of Medical Examiners on the basis of the degree of "Doctor of  
12 Osteopathy";

13 Doctor of Dentistry: One licensed by the State Board of  
14 Dental Examiners;

15 Doctor of Chiropractic: One licensed by the Texas Board of  
16 Chiropractic Examiners;

17 Doctor of Optometry: One licensed by the Texas Optometry  
18 Board;

19 Doctor of Podiatry: One licensed by the Texas State Board of  
20 Podiatric Medical Examiners;

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

25 Licensed Speech-language Pathologist: One with a master's or  
26 doctorate degree in speech pathology or speech-language pathology  
27 from an accredited college or university and who is licensed as a

1 speech-language pathologist by the State Board of Examiners for  
2 Speech-Language Pathology and Audiology;

3 Doctor in Psychology: One licensed by the Texas State Board  
4 of Examiners of Psychologists and certified as a Health Service  
5 Provider;

6 Licensed Master Social Worker--Advanced Clinical  
7 Practitioner: One licensed by the Texas State Board of Social  
8 Worker Examiners as a Licensed Master Social Worker with the order  
9 of recognition of Advanced Clinical Practitioner;

10 Licensed Dietitian: One licensed by the Texas State Board of  
11 Examiners of Dietitians;

12 Licensed Professional Counselor: One licensed by the Texas  
13 State Board of Examiners of Professional Counselors;

14 Licensed Marriage and Family Therapist: One licensed by the  
15 Texas State Board of Examiners of Marriage and Family Therapists;

16 Licensed Chemical Dependency Counselor: One licensed by the  
17 Texas Commission on Alcohol and Drug Abuse;

18 Licensed Hearing Instrument Fitter and Dispenser: One  
19 licensed by the State Committee of Examiners in the Fitting and  
20 Dispensing of Hearing Instruments;

21 Advanced Practice Nurse: One licensed by the Board of Nurse  
22 Examiners as a registered nurse and recognized by that board as an  
23 advanced practice nurse;

24 Physician Assistant: One licensed by the Texas State Board  
25 of Physician Assistant Examiners;

26 Licensed Occupational Therapist: One licensed by the Texas  
27 Board of Occupational Therapy Examiners;

1 Licensed Physical Therapist: One licensed by the Texas Board  
2 of Physical Therapy Examiners;

3 Licensed Acupuncturist: One licensed by the Texas State  
4 Board of Medical Examiners as an acupuncturist;

5 Licensed Psychological Associate: One licensed by the Texas  
6 State Board of Examiners of Psychologists and practicing under the  
7 supervision of a licensed psychologist; ~~and~~

8 Licensed Surgical Assistant: One licensed by the Texas State  
9 Board of Medical Examiners as a surgical assistant; and

10 Licensed Athletic Trainer: One licensed by the Advisory  
11 Board of Athletic Trainers.

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

16 (p) A preferred provider may not refuse to contract with an  
17 athletic trainer, as defined by Section 451.001, Occupations Code,  
18 to be included in the provider's network or refuse to reimburse the  
19 athletic trainer for a covered service that a physician has  
20 requested the athletic trainer to perform.

21 SECTION 3. Section 1, Article 21.52, Insurance Code, as  
22 amended by Chapters 812 and 1014, Acts of the 77th Legislature,  
23 Regular Session, 2001, is amended to read as follows:

24 Sec. 1. DEFINITIONS. As used in this article:

25 (a) "health insurance policy" means any individual,  
26 group, blanket, or franchise insurance policy, insurance  
27 agreement, or group hospital service contract, providing benefits

1 for medical or surgical expenses incurred as a result of an accident  
2 or sickness;

3 (b) "doctor of podiatric medicine" includes D.P.M.,  
4 podiatrist, doctor of surgical chiropody, D.S.C. and chiropodist;

5 (c) "doctor of optometry" includes optometrist,  
6 doctor of optometry, and O.D.;

7 (d) "doctor of chiropractic" means a person who is  
8 licensed by the Texas Board of Chiropractic Examiners to practice  
9 chiropractic;

10 (e) "licensed dentist" means a person who is licensed  
11 to practice dentistry by the State Board of Dental Examiners;

12 (f) "licensed audiologist" means a person who has  
13 received a master's or doctorate degree in audiology from an  
14 accredited college or university and is licensed as an audiologist  
15 by the State Board of Examiners for Speech-Language Pathology and  
16 Audiology;

17 (g) "licensed speech-language pathologist" means a  
18 person who has received a master's or doctorate degree in  
19 speech-language pathology from an accredited college or university  
20 and is licensed as a speech-language pathologist by the State Board  
21 of Examiners for Speech-Language Pathology and Audiology;

22 (h) "licensed master social worker--advanced clinical  
23 practitioner" means a person who is licensed by the Texas State  
24 Board of Social Worker Examiners as a licensed master social worker  
25 with the order of recognition of advanced clinical practitioner;

26 (i) "licensed dietitian" means a person who is  
27 licensed by the Texas State Board of Examiners of Dietitians;

1           (j) "licensed professional counselor" means a person  
2 who is licensed by the Texas State Board of Examiners of  
3 Professional Counselors;

4           (k) "psychologist" means a person licensed to practice  
5 psychology by the Texas State Board of Examiners of Psychologists;

6           (l) "licensed marriage and family therapist" means a  
7 person who is licensed by the Texas State Board of Examiners of  
8 Marriage and Family Therapists;

9           (m) "licensed chemical dependency counselor" means a  
10 person who is licensed by the Texas Commission on Alcohol and Drug  
11 Abuse;

12           (n) "licensed hearing instrument fitter and  
13 dispenser" means a person who is licensed by the State Committee of  
14 Examiners in the Fitting and Dispensing of Hearing Instruments;

15           (o) "licensed psychological associate" means a person  
16 who is licensed by the Texas State Board of Examiners of  
17 Psychologists and who practices under the supervision of a licensed  
18 psychologist;

19           (p) "occupational therapist" means a person who is  
20 licensed to practice occupational therapy by the Texas Board of  
21 Occupational Therapy Examiners;

22           (q) "physical therapist" means a person who practices  
23 physical therapy and is licensed by the Texas Board of Physical  
24 Therapy Examiners;

25           (r) "advanced practice nurse" means a person licensed  
26 by the Board of Nurse Examiners and recognized by that board as an  
27 advanced practice nurse;

1           (s) "licensed acupuncturist" means a person licensed  
2 to practice acupuncture by the Texas State Board of Medical  
3 Examiners;

4           (t) "physician assistant" means a person licensed by  
5 the Texas State Board of Physician Assistant Examiners; ~~and~~

6           (u) "nurse first assistant" has the meaning assigned  
7 by Section 301.1525, Occupations Code; ~~and~~

8           (v) ~~(u)~~ "Surgical assistant" means a person licensed  
9 by the Texas State Board of Medical Examiners as a surgical  
10 assistant; and

11           (w) "licensed athletic trainer" means a person  
12 licensed by the Advisory Board of Athletic Trainers.

13           SECTION 4. Section 3(a), Article 21.52, Insurance Code, as  
14 amended by Chapters 812 and 1014, Acts of the 77th Legislature,  
15 Regular Session, 2001, is amended to read as follows:

16           (a) Any person who is issued, who is a party to, or who is a  
17 beneficiary under any health insurance policy delivered, renewed,  
18 or issued for delivery in this state by any insurance company,  
19 association, or organization to which this article applies may  
20 select:

21           (1) a licensed doctor of podiatric medicine, a  
22 licensed dentist, or a doctor of chiropractic to perform the  
23 medical or surgical services or procedures scheduled in the policy  
24 which fall within the scope of the license of that practitioner;

25           (2) a licensed doctor of optometry to perform the  
26 services or procedures scheduled in the policy which fall within  
27 the scope of the license of that doctor of optometry;

1           (3) an occupational therapist to provide the services  
2 scheduled in the policy which fall within the scope of the license  
3 of that occupational therapist;

4           (4) a physical therapist to provide the services  
5 scheduled in the policy which fall within the scope of the license  
6 of that physical therapist;

7           (5) a licensed audiologist to measure hearing for the  
8 purpose of determining the presence or extent of a hearing loss and  
9 to provide aural rehabilitation services to a person with a hearing  
10 loss if those services or procedures are scheduled in the policy;

11           (6) a licensed speech-language pathologist to  
12 evaluate speech and language and to provide habilitative and  
13 rehabilitative services to restore speech or language loss or to  
14 correct a speech or language impairment if those services or  
15 procedures are scheduled in the policy;

16           (7) a licensed master social worker--advanced  
17 clinical practitioner to provide the services that fall within the  
18 scope of the license of such certified practitioner and which are  
19 specified as services within the terms of the policy of insurance,  
20 including the provision of direct, diagnostic, preventive, or  
21 clinical services to individuals, families, and groups whose  
22 functioning is threatened or affected by social or psychological  
23 stress or health impairment, if those services or procedures are  
24 scheduled in the policy;

25           (8) a licensed dietitian including a provisional  
26 licensed dietitian under a licensed dietitian's supervision to  
27 provide the services that fall within the scope of the license of

1 that dietitian if those services are scheduled in the policy;

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

5 (10) a licensed marriage and family therapist to  
6 provide the services that fall within the scope of the license of  
7 that professional if those services are scheduled in the policy;

8 (11) a psychologist to perform the services or  
9 procedures scheduled in the policy that fall within the scope of the  
10 license of that psychologist;

11 (12) a licensed chemical dependency counselor to  
12 perform the services or procedures scheduled in the policy that  
13 fall within the scope of the license of that practitioner;

14 (13) a licensed acupuncturist to perform the services  
15 or procedures scheduled in the policy that fall within the scope of  
16 the license of that practitioner;

17 (14) an advanced practice nurse to provide the  
18 services scheduled in the policy that fall within the scope of the  
19 license of that practitioner;

20 (15) a physician assistant to provide the services  
21 scheduled in the policy that fall within the scope of the license of  
22 that practitioner;

23 (16) a licensed hearing instrument fitter and  
24 dispenser to provide the services or procedures scheduled in the  
25 policy that fall within the scope of the license of that  
26 practitioner;

27 (17) a licensed psychological associate to provide the

1 services that fall within the scope of the license of that  
2 professional if those services are scheduled in the policy; [~~or~~]

3 (18) [~~(17)~~] a licensed surgical assistant to provide  
4 the services or procedures scheduled in the policy that fall within  
5 the scope of the license of that practitioner; [~~or~~]

6 (19) [~~(18)~~] a nurse first assistant to provide the  
7 services scheduled in the policy that:

8 (A) fall within the scope of the license of that  
9 practitioner; and

10 (B) are requested by the physician whom the nurse  
11 is assisting; or

12 (20) a licensed athletic trainer to provide the  
13 services that fall within the scope of the license of that  
14 professional if those services are scheduled in the policy.

15 SECTION 5. Section 3(c), Article 21.52, Insurance Code, is  
16 amended to read as follows:

17 (c) The payment or reimbursement by the insurance company,  
18 association, or organization for services or procedures in  
19 accordance with the payment schedule or the payment provisions in  
20 the policy shall not be denied because the same were performed by a  
21 licensed doctor of podiatric medicine, a licensed doctor of  
22 optometry, a licensed doctor of chiropractic, a licensed dentist,  
23 an occupational therapist, a physical therapist, a licensed  
24 audiologist, a licensed speech-language pathologist, a licensed  
25 master social worker--advanced clinical practitioner, a licensed  
26 dietitian, a licensed professional counselor, a licensed marriage  
27 and family therapist, a psychologist, a licensed psychological

1 associate, a licensed chemical dependency counselor, an advanced  
2 practice nurse, a nurse first assistant, a physician assistant, a  
3 licensed acupuncturist, ~~[or]~~ a licensed hearing instrument fitter  
4 and dispenser, or a licensed athletic trainer.

5 SECTION 6. Section 3(d), Article 21.52, Insurance Code, as  
6 amended by Chapters 812 and 1014, Acts of the 77th Legislature,  
7 Regular Session, 2001, is amended to read as follows:

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

1 performed by any other practitioner of the healing arts whose  
2 services or procedures are covered by the policy. However, a health  
3 insurance policy may provide for a different amount of payment or  
4 reimbursement for scheduled services or procedures when performed  
5 by an advanced practice nurse, a nurse first assistant, licensed  
6 surgical assistant, or physician assistant provided the  
7 reimbursement methodology used to calculate the payment for the  
8 service or procedure is the same methodology used to calculate the  
9 payment when the service or procedure is provided by a physician.

10 SECTION 7. Subchapter I, Chapter 843, Insurance Code, as  
11 effective June 1, 2003, is amended by adding Section 843.3121 to  
12 read as follows:

13 Sec. 843.3121. ATHLETIC TRAINERS. A health maintenance  
14 organization may not refuse to contract with an athletic trainer,  
15 as defined by Section 451.001, Occupations Code, to be included in  
16 the organization's provider network or refuse to reimburse the  
17 athletic trainer for a covered service that a physician has  
18 requested the athletic trainer to perform.

19 SECTION 8. This Act takes effect September 1, 2003, and  
20 applies only to a health insurance policy or contract or an evidence  
21 of coverage that is delivered, issued for delivery, or renewed on or  
22 after January 1, 2004. A health insurance policy or contract or an  
23 evidence of coverage that is delivered, issued for delivery, or  
24 renewed before January 1, 2004, is governed by the law as it existed  
25 immediately before the effective date of this Act, and that law is  
26 continued in effect for that purpose.