

1-1 By: Armbrister S.B. No. 382
1-2 (In the Senate - Filed February 6, 2003; February 11, 2003,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 2, 2003, reported favorably by the following vote: Yeas 8,
1-5 Nays 0; April 2, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to reimbursement under certain health benefit plans for
1-9 services provided by licensed athletic trainers.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsection (B), Section 2, Chapter 397, Acts of
1-12 the 54th Legislature, Regular Session, 1955 (Article 3.70-2,
1-13 Vernon's Texas Insurance Code), is amended to read as follows:

1-14 (B) No policy of accident and sickness insurance shall make
1-15 benefits contingent upon treatment or examination by a particular
1-16 practitioner or by particular practitioners of the healing arts
1-17 hereinafter designated unless such policy contains a provision
1-18 designating the practitioner or practitioners who will be
1-19 recognized by the insurer and those who will not be recognized by
1-20 the insurer. Such provision may be located in the "Exceptions" or
1-21 "Exceptions and Reductions" provisions, or elsewhere in the policy,
1-22 or by endorsement attached to the policy, at the insurer's option.
1-23 In designating the practitioners who will and will not be
1-24 recognized, such provision shall use the following terms: Doctor
1-25 of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of
1-26 Chiropractic, Doctor of Optometry, Doctor of Podiatry, Licensed
1-27 Audiologist, Licensed Speech-language Pathologist, Doctor in
1-28 Psychology, Licensed Master Social Worker--Advanced Clinical
1-29 Practitioner, Licensed Dietitian, Licensed Professional Counselor,
1-30 Licensed Marriage and Family Therapist, Licensed Chemical
1-31 Dependency Counselor, Licensed Hearing Instrument Fitter and
1-32 Dispenser, Advanced Practice Nurse, Physician Assistant, Licensed
1-33 Occupational Therapist, Licensed Physical Therapist, Licensed
1-34 Acupuncturist, Licensed Psychological Associate, ~~and~~ Licensed
1-35 Surgical Assistant, and Licensed Athletic Trainer.

1-36 For purposes of this Act, such designations shall have the
1-37 following meanings:

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

1-40 Doctor of Osteopathy: One licensed by the Texas State Board
1-41 of Medical Examiners on the basis of the degree of "Doctor of
1-42 Osteopathy";

1-43 Doctor of Dentistry: One licensed by the State Board of
1-44 Dental Examiners;

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

1-47 Doctor of Optometry: One licensed by the Texas Optometry
1-48 Board;

1-49 Doctor of Podiatry: One licensed by the Texas State Board of
1-50 Podiatric Medical Examiners;

1-51 Licensed Audiologist: One with a master's or doctorate
1-52 degree in audiology from an accredited college or university and
1-53 who is licensed as an audiologist by the State Board of Examiners
1-54 for Speech-Language Pathology and Audiology;

1-55 Licensed Speech-language Pathologist: One with a master's or
1-56 doctorate degree in speech pathology or speech-language pathology
1-57 from an accredited college or university and who is licensed as a
1-58 speech-language pathologist by the State Board of Examiners for
1-59 Speech-Language Pathology and Audiology;

1-60 Doctor in Psychology: One licensed by the Texas State Board
1-61 of Examiners of Psychologists and certified as a Health Service
1-62 Provider;

1-63 Licensed Master Social Worker--Advanced Clinical
1-64 Practitioner: One licensed by the Texas State Board of Social

2-1 Worker Examiners as a Licensed Master Social Worker with the order
 2-2 of recognition of Advanced Clinical Practitioner;
 2-3 Licensed Dietitian: One licensed by the Texas State Board of
 2-4 Examiners of Dietitians;
 2-5 Licensed Professional Counselor: One licensed by the Texas
 2-6 State Board of Examiners of Professional Counselors;
 2-7 Licensed Marriage and Family Therapist: One licensed by the
 2-8 Texas State Board of Examiners of Marriage and Family Therapists;
 2-9 Licensed Chemical Dependency Counselor: One licensed by the
 2-10 Texas Commission on Alcohol and Drug Abuse;
 2-11 Licensed Hearing Instrument Fitter and Dispenser: One
 2-12 licensed by the State Committee of Examiners in the Fitting and
 2-13 Dispensing of Hearing Instruments;
 2-14 Advanced Practice Nurse: One licensed by the Board of Nurse
 2-15 Examiners as a registered nurse and recognized by that board as an
 2-16 advanced practice nurse;
 2-17 Physician Assistant: One licensed by the Texas State Board
 2-18 of Physician Assistant Examiners;
 2-19 Licensed Occupational Therapist: One licensed by the Texas
 2-20 Board of Occupational Therapy Examiners;
 2-21 Licensed Physical Therapist: One licensed by the Texas Board
 2-22 of Physical Therapy Examiners;
 2-23 Licensed Acupuncturist: One licensed by the Texas State
 2-24 Board of Medical Examiners as an acupuncturist;
 2-25 Licensed Psychological Associate: One licensed by the Texas
 2-26 State Board of Examiners of Psychologists and practicing under the
 2-27 supervision of a licensed psychologist; ~~and~~
 2-28 Licensed Surgical Assistant: One licensed by the Texas State
 2-29 Board of Medical Examiners as a surgical assistant; and
 2-30 Licensed Athletic Trainer: One licensed by the Advisory
 2-31 Board of Athletic Trainers.
 2-32 SECTION 2. Section 3, Article 3.70-3C, Insurance Code, as
 2-33 added by Chapter 1024, Acts of the 75th Legislature, Regular
 2-34 Session, 1997, is amended by adding Subsection (p) to read as
 2-35 follows:
 2-36 (p) A preferred provider may not refuse to contract with an
 2-37 athletic trainer, as defined by Section 451.001, Occupations Code,
 2-38 to be included in the provider's network or refuse to reimburse the
 2-39 athletic trainer for a covered service that a physician has
 2-40 requested the athletic trainer to perform.
 2-41 SECTION 3. Section 1, Article 21.52, Insurance Code, as
 2-42 amended by Chapters 812 and 1014, Acts of the 77th Legislature,
 2-43 Regular Session, 2001, is amended to read as follows:
 2-44 Sec. 1. DEFINITIONS. As used in this article:
 2-45 (a) "health insurance policy" means any individual,
 2-46 group, blanket, or franchise insurance policy, insurance
 2-47 agreement, or group hospital service contract, providing benefits
 2-48 for medical or surgical expenses incurred as a result of an accident
 2-49 or sickness;
 2-50 (b) "doctor of podiatric medicine" includes D.P.M.,
 2-51 podiatrist, doctor of surgical chiropody, D.S.C. and chiropodist;
 2-52 (c) "doctor of optometry" includes optometrist,
 2-53 doctor of optometry, and O.D.;
 2-54 (d) "doctor of chiropractic" means a person who is
 2-55 licensed by the Texas Board of Chiropractic Examiners to practice
 2-56 chiropractic;
 2-57 (e) "licensed dentist" means a person who is licensed
 2-58 to practice dentistry by the State Board of Dental Examiners;
 2-59 (f) "licensed audiologist" means a person who has
 2-60 received a master's or doctorate degree in audiology from an
 2-61 accredited college or university and is licensed as an audiologist
 2-62 by the State Board of Examiners for Speech-Language Pathology and
 2-63 Audiology;
 2-64 (g) "licensed speech-language pathologist" means a
 2-65 person who has received a master's or doctorate degree in
 2-66 speech-language pathology from an accredited college or university
 2-67 and is licensed as a speech-language pathologist by the State Board
 2-68 of Examiners for Speech-Language Pathology and Audiology;
 2-69 (h) "licensed master social worker--advanced clinical

3-1 practitioner" means a person who is licensed by the Texas State
3-2 Board of Social Worker Examiners as a licensed master social worker
3-3 with the order of recognition of advanced clinical practitioner;

3-4 (i) "licensed dietitian" means a person who is
3-5 licensed by the Texas State Board of Examiners of Dietitians;

3-6 (j) "licensed professional counselor" means a person
3-7 who is licensed by the Texas State Board of Examiners of
3-8 Professional Counselors;

3-9 (k) "psychologist" means a person licensed to practice
3-10 psychology by the Texas State Board of Examiners of Psychologists;

3-11 (l) "licensed marriage and family therapist" means a
3-12 person who is licensed by the Texas State Board of Examiners of
3-13 Marriage and Family Therapists;

3-14 (m) "licensed chemical dependency counselor" means a
3-15 person who is licensed by the Texas Commission on Alcohol and Drug
3-16 Abuse;

3-17 (n) "licensed hearing instrument fitter and
3-18 dispenser" means a person who is licensed by the State Committee of
3-19 Examiners in the Fitting and Dispensing of Hearing Instruments;

3-20 (o) "licensed psychological associate" means a person
3-21 who is licensed by the Texas State Board of Examiners of
3-22 Psychologists and who practices under the supervision of a licensed
3-23 psychologist;

3-24 (p) "occupational therapist" means a person who is
3-25 licensed to practice occupational therapy by the Texas Board of
3-26 Occupational Therapy Examiners;

3-27 (q) "physical therapist" means a person who practices
3-28 physical therapy and is licensed by the Texas Board of Physical
3-29 Therapy Examiners;

3-30 (r) "advanced practice nurse" means a person licensed
3-31 by the Board of Nurse Examiners and recognized by that board as an
3-32 advanced practice nurse;

3-33 (s) "licensed acupuncturist" means a person licensed
3-34 to practice acupuncture by the Texas State Board of Medical
3-35 Examiners;

3-36 (t) "physician assistant" means a person licensed by
3-37 the Texas State Board of Physician Assistant Examiners; ~~and~~

3-38 (u) "nurse first assistant" has the meaning assigned
3-39 by Section 301.1525, Occupations Code; ~~and~~

3-40 ~~(v) [(u)]~~ "Surgical assistant" means a person licensed
3-41 by the Texas State Board of Medical Examiners as a surgical
3-42 assistant; ~~and~~

3-43 (w) "licensed athletic trainer" means a person
3-44 licensed by the Advisory Board of Athletic Trainers.

3-45 SECTION 4. Subsection (a), Section 3, Article 21.52,
3-46 Insurance Code, as amended by Chapters 812 and 1014, Acts of the
3-47 77th Legislature, Regular Session, 2001, is amended to read as
3-48 follows:

3-49 (a) Any person who is issued, who is a party to, or who is a
3-50 beneficiary under any health insurance policy delivered, renewed,
3-51 or issued for delivery in this state by any insurance company,
3-52 association, or organization to which this article applies may
3-53 select:

3-54 (1) a licensed doctor of podiatric medicine, a
3-55 licensed dentist, or a doctor of chiropractic to perform the
3-56 medical or surgical services or procedures scheduled in the policy
3-57 which fall within the scope of the license of that practitioner;

3-58 (2) a licensed doctor of optometry to perform the
3-59 services or procedures scheduled in the policy which fall within
3-60 the scope of the license of that doctor of optometry;

3-61 (3) an occupational therapist to provide the services
3-62 scheduled in the policy which fall within the scope of the license
3-63 of that occupational therapist;

3-64 (4) a physical therapist to provide the services
3-65 scheduled in the policy which fall within the scope of the license
3-66 of that physical therapist;

3-67 (5) a licensed audiologist to measure hearing for the
3-68 purpose of determining the presence or extent of a hearing loss and
3-69 to provide aural rehabilitation services to a person with a hearing

4-1 loss if those services or procedures are scheduled in the policy;

4-2 (6) a licensed speech-language pathologist to
4-3 evaluate speech and language and to provide habilitative and
4-4 rehabilitative services to restore speech or language loss or to
4-5 correct a speech or language impairment if those services or
4-6 procedures are scheduled in the policy;

4-7 (7) a licensed master social worker--advanced
4-8 clinical practitioner to provide the services that fall within the
4-9 scope of the license of such certified practitioner and which are
4-10 specified as services within the terms of the policy of insurance,
4-11 including the provision of direct, diagnostic, preventive, or
4-12 clinical services to individuals, families, and groups whose
4-13 functioning is threatened or affected by social or psychological
4-14 stress or health impairment, if those services or procedures are
4-15 scheduled in the policy;

4-16 (8) a licensed dietitian including a provisional
4-17 licensed dietitian under a licensed dietitian's supervision to
4-18 provide the services that fall within the scope of the license of
4-19 that dietitian if those services are scheduled in the policy;

4-20 (9) a licensed professional counselor to provide the
4-21 services that fall within the scope of the license of that
4-22 professional if those services are scheduled in the policy;

4-23 (10) a licensed marriage and family therapist to
4-24 provide the services that fall within the scope of the license of
4-25 that professional if those services are scheduled in the policy;

4-26 (11) a psychologist to perform the services or
4-27 procedures scheduled in the policy that fall within the scope of the
4-28 license of that psychologist;

4-29 (12) a licensed chemical dependency counselor to
4-30 perform the services or procedures scheduled in the policy that
4-31 fall within the scope of the license of that practitioner;

4-32 (13) a licensed acupuncturist to perform the services
4-33 or procedures scheduled in the policy that fall within the scope of
4-34 the license of that practitioner;

4-35 (14) an advanced practice nurse to provide the
4-36 services scheduled in the policy that fall within the scope of the
4-37 license of that practitioner;

4-38 (15) a physician assistant to provide the services
4-39 scheduled in the policy that fall within the scope of the license of
4-40 that practitioner;

4-41 (16) a licensed hearing instrument fitter and
4-42 dispenser to provide the services or procedures scheduled in the
4-43 policy that fall within the scope of the license of that
4-44 practitioner;

4-45 (17) a licensed psychological associate to provide the
4-46 services that fall within the scope of the license of that
4-47 professional if those services are scheduled in the policy; ~~or~~

4-48 (18) ~~[(17)]~~ a licensed surgical assistant to provide
4-49 the services or procedures scheduled in the policy that fall within
4-50 the scope of the license of that practitioner; ~~or~~

4-51 (19) ~~[(18)]~~ a nurse first assistant to provide the
4-52 services scheduled in the policy that:

4-53 (A) fall within the scope of the license of that
4-54 practitioner; and

4-55 (B) are requested by the physician whom the nurse
4-56 is assisting; or

4-57 (20) a licensed athletic trainer to provide the
4-58 services that fall within the scope of the license of that
4-59 professional if those services are scheduled in the policy.

4-60 SECTION 5. Subsection (c), Section 3, Article 21.52,
4-61 Insurance Code, is amended to read as follows:

4-62 (c) The payment or reimbursement by the insurance company,
4-63 association, or organization for services or procedures in
4-64 accordance with the payment schedule or the payment provisions in
4-65 the policy shall not be denied because the same were performed by a
4-66 licensed doctor of podiatric medicine, a licensed doctor of
4-67 optometry, a licensed doctor of chiropractic, a licensed dentist,
4-68 an occupational therapist, a physical therapist, a licensed
4-69 audiologist, a licensed speech-language pathologist, a licensed

5-1 master social worker--advanced clinical practitioner, a licensed
 5-2 dietitian, a licensed professional counselor, a licensed marriage
 5-3 and family therapist, a psychologist, a licensed psychological
 5-4 associate, a licensed chemical dependency counselor, an advanced
 5-5 practice nurse, a nurse first assistant, a physician assistant, a
 5-6 licensed acupuncturist, ~~or~~ a licensed hearing instrument fitter
 5-7 and dispenser, or a licensed athletic trainer.

5-8 SECTION 6. Subsection (d), Section 3, Article 21.52,
 5-9 Insurance Code, as amended by Chapters 812 and 1014, Acts of the
 5-10 77th Legislature, Regular Session, 2001, is amended to read as
 5-11 follows:

5-12 (d) There shall not be any classification, differentiation,
 5-13 or other discrimination in the payment schedule or the payment
 5-14 provisions in a health insurance policy, nor in the amount or manner
 5-15 of payment or reimbursement thereunder, between scheduled services
 5-16 or procedures when performed by a doctor of podiatric medicine, a
 5-17 doctor of optometry, a doctor of chiropractic, a licensed dentist,
 5-18 an occupational therapist, a physical therapist, a licensed
 5-19 athletic trainer, a licensed audiologist, a licensed
 5-20 speech-language pathologist, a licensed master social
 5-21 worker--advanced clinical practitioner, a licensed dietitian, a
 5-22 licensed professional counselor, a licensed marriage and family
 5-23 therapist, a psychologist, a licensed psychological associate, a
 5-24 licensed chemical dependency counselor, an advanced practice nurse
 5-25 to provide the services scheduled in the policy, a nurse first
 5-26 assistant to provide the services scheduled in the policy and
 5-27 requested by the physician whom the nurse is assisting, a physician
 5-28 assistant to provide the services scheduled in the policy, a
 5-29 licensed acupuncturist, or a licensed hearing instrument fitter and
 5-30 dispenser which fall within the scope of that practitioner's
 5-31 license or certification and the same services or procedures when
 5-32 performed by any other practitioner of the healing arts whose
 5-33 services or procedures are covered by the policy. However, a health
 5-34 insurance policy may provide for a different amount of payment or
 5-35 reimbursement for scheduled services or procedures when performed
 5-36 by an advanced practice nurse, a nurse first assistant, licensed
 5-37 surgical assistant, or physician assistant provided the
 5-38 reimbursement methodology used to calculate the payment for the
 5-39 service or procedure is the same methodology used to calculate the
 5-40 payment when the service or procedure is provided by a physician.

5-41 SECTION 7. Subchapter I, Chapter 843, Insurance Code, as
 5-42 effective June 1, 2003, is amended by adding Section 843.3121 to
 5-43 read as follows:

5-44 Sec. 843.3121. ATHLETIC TRAINERS. A health maintenance
 5-45 organization may not refuse to contract with an athletic trainer,
 5-46 as defined by Section 451.001, Occupations Code, to be included in
 5-47 the organization's provider network or refuse to reimburse the
 5-48 athletic trainer for a covered service that a physician has
 5-49 requested the athletic trainer to perform.

5-50 SECTION 8. This Act takes effect September 1, 2003, and
 5-51 applies only to a health insurance policy or contract or an evidence
 5-52 of coverage that is delivered, issued for delivery, or renewed on or
 5-53 after January 1, 2004. A health insurance policy or contract or an
 5-54 evidence of coverage that is delivered, issued for delivery, or
 5-55 renewed before January 1, 2004, is governed by the law as it existed
 5-56 immediately before the effective date of this Act, and that law is
 5-57 continued in effect for that purpose.

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