

AN ACT

relating to the administration and regulation of the state's workers' compensation insurance system.

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

SECTION 1. Subsection (b), Section 413.0511, Labor Code, is amended to read as follows:

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

(1) develop, maintain, and review guidelines as provided by Section 413.011, including rules regarding impairment ratings;

(2) review compliance with those guidelines;

(3) regulate or perform other acts related to medical benefits as required by the commission;

(4) impose sanctions or delete doctors from the commission's list of approved doctors under Section 408.023 for:

(A) any reason described by Section 408.0231; or

(B) noncompliance with commission rules;

(5) impose conditions or restrictions as authorized by Section 408.0231(f);

(6) receive, and share with the medical quality review panel established under Section 413.0512, confidential information, and other information to which access is otherwise restricted by law, as provided by Sections 413.0512, 413.0513, and

1 413.0514 from the Texas State Board of Medical Examiners, the Texas
2 Board of Chiropractic Examiners, or other occupational licensing
3 boards regarding [~~disciplinary actions imposed on~~] a physician,
4 chiropractor, or other type of doctor who applies for registration
5 or is registered with the commission on the list of approved
6 doctors; and

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

10 SECTION 2. Subsection (d), Section 413.0512, Labor Code, is
11 amended to read as follows:

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

23 SECTION 3. Section 413.0513, Labor Code, is amended to read
24 as follows:

25 Sec. 413.0513. CONFIDENTIALITY REQUIREMENTS. (a) Information
26 collected, assembled, or maintained by or on behalf of the
27 commission under Section 413.0511 or 413.0512 constitutes an

1 investigation file for purposes of Section 402.092[7] and [~~that is~~
2 ~~confidential under law,~~] may not be disclosed under Section
3 413.0511 or 413.0512 except as provided by that section[+]

4 [~~(1) in a criminal proceeding,~~

5 [~~(2) in a hearing conducted by or on behalf of the~~
6 ~~commission,~~

7 [~~(3) in a hearing conducted by another licensing or~~
8 ~~regulatory authority, as provided in the interagency agreement, or~~

9 [~~(4) on a finding of good cause in an administrative or~~
10 ~~judicial proceeding involving the enforcement of this subtitle or~~
11 ~~in a disciplinary action under this subtitle].~~

12 (b) Confidential information, and other information to
13 which access is restricted by law, developed by or on behalf of the
14 commission under Section 413.0511 or 413.0512 is not subject to
15 discovery or court subpoena in any action other than:

16 (1) an action to enforce this subtitle brought by the
17 commission, an appropriate licensing or regulatory agency, or an
18 appropriate enforcement authority; or

19 (2) a criminal proceeding.

20 SECTION 4. Subchapter E, Chapter 413, Labor Code, is
21 amended by adding Sections 413.0514 and 413.0515 to read as
22 follows:

23 Sec. 413.0514. INFORMATION SHARING WITH OCCUPATIONAL
24 LICENSING BOARDS. (a) This section applies only to information
25 held by or for the commission, the Texas State Board of Medical
26 Examiners, and Texas Board of Chiropractic Examiners that relates
27 to a person who is licensed or otherwise regulated by any of those

1 state agencies.

2 (b) The commission and the Texas State Board of Medical
3 Examiners on request or on its own initiative, may share with each
4 other confidential information or information to which access is
5 otherwise restricted by law. The commission and the Texas State
6 Board of Medical Examiners shall cooperate with and assist each
7 other when either agency is conducting an investigation by
8 providing information to each other that the sending agency
9 determines is relevant to the investigation. Except as provided by
10 this section, confidential information that is shared under this
11 section remains confidential under law and legal restrictions on
12 access to the information remain in effect. Furnishing information
13 by the Texas State Board of Medical Examiners to the commission or
14 by the commission to the Texas State Board of Medical Examiners
15 under this subsection does not constitute a waiver of privilege or
16 confidentiality as established by law.

17 (c) Information that is received by the commission from the
18 Texas State Board of Medical Examiners or by the Texas State Board
19 of Medical Examiners from the commission remains confidential, may
20 not be disclosed by the commission except as necessary to further
21 the investigation, and shall be exempt from disclosure under
22 Sections 402.092 and 413.0513.

23 (d) The commission and the Texas Board of Chiropractic
24 Examiners on request or on its own initiative, may share with each
25 other confidential information or information to which access is
26 otherwise restricted by law. The commission and the Texas Board of
27 Chiropractic Examiners shall cooperate with and assist each other

1 when either agency is conducting an investigation by providing
2 information to each other that is relevant to the investigation.
3 Except as provided by this section, confidential information that
4 is shared under this section remains confidential under law and
5 legal restrictions on access to the information remain in effect
6 unless the agency sharing the information approves use of the
7 information by the receiving agency for enforcement purposes.
8 Furnishing information by the Texas Board of Chiropractic Examiners
9 to the commission or by the commission to the Texas Board of
10 Chiropractic Examiners under this subsection does not constitute a
11 waiver of privilege or confidentiality as established by law.

12 (e) Information that is received by the commission from the
13 Texas Board of Chiropractic Examiners or by the Texas Board of
14 Chiropractic Examiners remains confidential and may not be
15 disclosed by the commission except as necessary to further the
16 investigation unless the agency sharing the information and the
17 agency receiving the information agree to use of the information by
18 the receiving agency for enforcement purposes.

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

22 (g) 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 AND 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 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, the agency shall
5 report that act or omission to the other agency.

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 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, the agency shall
12 report that act or omission to the other agency.

13 SECTION 5. Subsection (a), Section 160.006, Occupations
14 Code, is amended to read as follows:

15 (a) A record, report, or other information received and
16 maintained by the board under this subchapter or Subchapter B,
17 including any material received or developed by the board during an
18 investigation or hearing and the identity of, and reports made by, a
19 physician performing or supervising compliance monitoring for the
20 board, is confidential. The board may disclose this information
21 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 as
8 provided by Section 413.0514, Labor Code.

9 SECTION 6. Section 408.047, Labor Code, is amended to read
10 as follows:

11 Sec. 408.047. STATE AVERAGE WEEKLY WAGE. The state average
12 weekly wage for the fiscal year beginning September 1, 2003, and
13 ending August 31, 2004, is \$537, and for the fiscal year beginning
14 September 1, 2004, and ending August 31, 2005, is \$539 ~~[equals the~~
15 ~~annual average of the average weekly wage of manufacturing~~
16 ~~production workers in this state, as determined by the Texas~~
17 ~~Employment Commission]~~.

18 SECTION 7. Subsection (d), Section 413.0512, Labor Code, as
19 amended by this Act, applies to a member of the medical quality
20 review panel regardless of whether the person is a member of the
21 panel at the time the action is brought.

22 SECTION 8. (a) The changes in law made by this Act apply to
23 information maintained by or on behalf of the Texas Workers'
24 Compensation Commission, the Texas State Board of Medical
25 Examiners, or the Texas Board of Chiropractic Examiners without
26 regard to the date the information is collected, compiled,
27 developed, or shared between the agencies.

1 (b) This Act takes effect immediately if it receives a vote
2 of two-thirds of all the members elected to each house, as provided
3 by Section 39, Article III, Texas Constitution. If this Act does
4 not receive the vote necessary for immediate effect, this Act takes
5 effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1574 passed the Senate on May 8, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1574 passed the House, with amendment, on May 23, 2003, by the following vote: Yeas 145, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor