

By: Deuell

S.B. No. 1517

A BILL TO BE ENTITLED

AN ACT

relating to qualifications of physicians who perform certain utilization review duties for a health benefit plan.

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

SECTION 1. Section 4(h), Article 21.58A, Insurance Code, is amended to read as follows:

(h) Utilization review conducted by a utilization review agent shall be under the direction of a physician licensed to practice medicine in this ~~[by a]~~ state ~~[licensing agency in the United States]~~.

SECTION 2. Article 21.58A, Insurance Code, is amended by adding Section 4A to read as follows:

Sec. 4A. TEXAS LICENSE REQUIRED FOR CERTAIN PHYSICIANS. A physician who performs any of the following duties with respect to health care provided in this state for a utilization review agent must be licensed as a doctor of medicine or osteopathy in this state:

(1) reviewing, developing standards for, or approving a utilization review plan under Section 4(b) or 14(j)(1) of this article;

(2) discussing a plan of treatment for a patient and the clinical basis for the utilization review agent's decision with a patient's health care provider under Section 4(k) or Section 14(j)(4) of this article;

1 (3) making an appeal decision under Section 6(b)(3) or
2 Section 14(j)(5) of this article;

3 (4) being involved in establishing written screening
4 criteria for utilization review or for a retrospective review of
5 the medical necessity and appropriateness of a health care service
6 under Section 4(i) or 11(a)(1) of this article;

7 (5) directing a payor's system for retrospective
8 review under Section 11(a)(2) of this article; or

9 (6) directing the conduct of utilization review under
10 Section 4(h) or 14(j)(3) of this article.

11 SECTION 3. Section 14(j), Article 21.58A, Insurance Code,
12 is amended to read as follows:

13 (j) A specialty utilization review agent is not subject to
14 Section 4(b), (c), (h), or (k) or Section 6(b)(3) of this article.
15 For purposes of this subsection, a specialty utilization review
16 agent means a utilization review agent that conducts utilization
17 review for specialty health care services, including but not
18 limited to dentistry, chiropractic, or physical therapy. A
19 specialty utilization review agent shall comply with the following
20 requirements:

21 (1) the utilization review plan, including
22 reconsideration and appeal requirements, shall be reviewed by a
23 health care provider of the appropriate specialty and conducted in
24 accordance with standards developed with input from a health care
25 provider of the appropriate specialty;

26 (2) personnel employed by or under contract with a
27 specialty utilization review agent to perform utilization review

1 shall be appropriately trained and qualified. Personnel who obtain
2 information directly from the physician or health care provider,
3 either orally or in writing, shall be nurses, physician assistants,
4 or other health care providers of the same specialty as the
5 utilization review agent and who are licensed or otherwise
6 authorized to provide the specialty health care service by a state
7 licensing agency in the United States, except that this provision
8 does not require those qualifications for personnel who perform
9 solely clerical or administrative tasks;

10 (3) utilization review conducted by a specialty
11 utilization review agent shall be conducted under the direction of
12 a health care provider of the same specialty and, except as provided
13 by Section 4A of this article, shall be licensed or otherwise
14 authorized to provide the specialty health care service by a state
15 licensing agency in the United States;

16 (4) subject to the notice requirements of Section 5 of
17 this article, in any instance where the specialty utilization
18 review agent questions the medical necessity or appropriateness of
19 health care services, the health care provider who ordered the
20 services shall, prior to the issuance of an adverse determination,
21 be afforded a reasonable opportunity to discuss the plan of
22 treatment for the patient and the clinical basis for the decision of
23 the utilization review agent with a health care provider of the same
24 specialty as the utilization review agent; and

25 (5) appeal decisions shall be made by a physician or
26 health care provider in the same or a similar specialty as typically
27 manages the medical, dental, or specialty condition, procedure, or

1 treatment under discussion for review of the adverse determination.

2 SECTION 4. The change in law made by this Act applies only
3 to an action of a physician on or after January 1, 2006. An action
4 of a physician before January 1, 2006, is governed by the law in
5 effect immediately before the effective date of this Act, and that
6 law is continued in effect for that purpose.

7 SECTION 5. This Act takes effect September 1, 2005.