

By: Giddings

H.B. No. 2004

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requiring that a doctor who reviews a workers'  
3 compensation case be certified in a professional specialty  
4 appropriate to the care received by the injured employee.

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

6 SECTION 1. Subchapter A, Chapter 408, Labor Code, is  
7 amended by adding Sections 408.0043 through 408.0046 to read as  
8 follows:

9 Sec. 408.0043. PROFESSIONAL SPECIALTY CERTIFICATION  
10 REQUIRED FOR CERTAIN REVIEW. (a) This section applies to a person,  
11 other than a chiropractor or a dentist, who performs health care  
12 services under this title as:

13 (1) a doctor performing peer review;

14 (2) a doctor performing a utilization review of a  
15 health care service provided to an injured employee, including a  
16 retrospective review;

17 (3) a doctor performing an independent review of a  
18 health care service provided to an injured employee, including a  
19 retrospective review;

20 (4) a designated doctor;

21 (5) a doctor performing a required medical  
22 examination; or

23 (6) a doctor serving as a member of the medical quality  
24 review panel.

1       (b) A person described by Subsection (a) who reviews a  
2 specific workers' compensation case must hold a professional  
3 certification in a health care specialty appropriate to the type of  
4 health care that the injured employee is receiving.

5       Sec. 408.0044. REVIEW OF DENTAL SERVICES. (a) This section  
6 applies to a dentist who performs dental services under this title  
7 as:

8           (1) a doctor performing peer review of dental  
9 services;

10          (2) a doctor performing a utilization review of a  
11 dental service provided to an injured employee, including a  
12 retrospective review;

13          (3) a doctor performing an independent review of a  
14 dental service provided to an injured employee, including a  
15 retrospective review; or

16          (4) a doctor performing a required dental examination.

17       (b) A person described by Subsection (a) who reviews a  
18 dental service provided in conjunction with a specific workers'  
19 compensation case must be licensed to practice dentistry.

20       Sec. 408.0045. REVIEW OF CHIROPRACTIC SERVICES. (a) This  
21 section applies to a chiropractor who performs chiropractic  
22 services under this title as:

23           (1) a doctor performing peer review of chiropractic  
24 services;

25          (2) a doctor performing a utilization review of a  
26 chiropractic service provided to an injured employee, including a  
27 retrospective review;

1           (3) a doctor performing an independent review of a  
2 chiropractic service provided to an injured employee, including a  
3 retrospective review;

4           (4) a designated doctor providing chiropractic  
5 services;

6           (5) a doctor performing a required medical  
7 examination; or

8           (6) a chiropractor serving as a member of the medical  
9 quality review panel.

10          (b) A person described by Subsection (a) who reviews a  
11 chiropractic service provided in conjunction with a specific  
12 workers' compensation case must be licensed to engage in the  
13 practice of chiropractic.

14          Sec. 408.0046. RULES. The commissioner may adopt rules as  
15 necessary to determine which professional health practitioner  
16 specialties are appropriate for treatment of certain compensable  
17 injuries.

18          SECTION 2. Section 408.004, Labor Code, is amended by  
19 adding Subsection (a-1) to read as follows:

20          (a-1) A doctor, other than a chiropractor, who performs a  
21 required medical examination under this section is subject to  
22 Section 408.0043. A chiropractor who performs a required medical  
23 examination under this section is subject to Section 408.0045.

24          SECTION 3. Section 408.0041(b), Labor Code, is amended to  
25 read as follows:

26          (b) A medical examination requested under Subsection (a)  
27 shall be performed by the next available doctor on the division's

1 list of designated doctors whose credentials are appropriate for  
2 the issue in question and the injured employee's medical condition  
3 as determined by commissioner rule. A designated doctor, other than  
4 a chiropractor, is subject to Section 408.0043. A designated  
5 doctor who is a chiropractor is subject to Section 408.0045. The  
6 division shall assign a designated doctor not later than the 10th  
7 day after the date on which the request under Subsection (a) is  
8 approved, and the examination must be conducted not later than the  
9 21st day after the date on which the commissioner issues the order  
10 under Subsection (a). An examination under this section may not be  
11 conducted more frequently than every 60 days, unless good cause for  
12 more frequent examinations exists, as defined by commissioner  
13 rules.

14 SECTION 4. Section 408.0231(g), Labor Code, is amended to  
15 read as follows:

16 (g) The commissioner shall adopt rules regarding doctors  
17 who perform peer review functions for insurance carriers. Those  
18 rules may include standards for peer review, imposition of  
19 sanctions on doctors performing peer review functions, including  
20 restriction, suspension, or removal of the doctor's ability to  
21 perform peer review on behalf of insurance carriers in the workers'  
22 compensation system, and other issues important to the quality of  
23 peer review, as determined by the commissioner. A doctor who  
24 performs peer review under this subtitle must hold the appropriate  
25 professional license issued by this state. A doctor, other than a  
26 chiropractor or a dentist, who performs peer review is subject to  
27 Section 408.0043. A dentist who performs a peer review of a dental

1 service provided to an injured employee is subject to Section  
2 408.0044. A chiropractor who performs a peer review of a  
3 chiropractic service provided to an injured employee is subject to  
4 Section 408.0045.

5 SECTION 5. Section 408.1225, Labor Code, is amended by  
6 adding Subsection (e) to read as follows:

7 (e) A designated doctor, other than a chiropractor, is  
8 subject to Section 408.0043. A designated doctor who is a  
9 chiropractor is subject to Section 408.0045.

10 SECTION 6. Section 413.031, Labor Code, is amended by  
11 amending Subsections (d) and (e) and adding Subsection (e-3) to  
12 read as follows:

13 (d) A review of the medical necessity of a health care  
14 service requiring preauthorization under Section 413.014 or  
15 commissioner rules under that section or Section 413.011(g) shall  
16 be conducted by an independent review organization under Chapter  
17 4202 [~~Article 21.58C~~], Insurance Code, in the same manner as  
18 reviews of utilization review decisions by health maintenance  
19 organizations. It is a defense for the insurance carrier if the  
20 carrier timely complies with the decision of the independent review  
21 organization.

22 (e) Except as provided by Subsections (d), (f), and (m), a  
23 review of the medical necessity of a health care service provided  
24 under this chapter or Chapter 408 shall be conducted by an  
25 independent review organization under Chapter 4202 [~~Article~~  
26 ~~21.58C~~], Insurance Code, in the same manner as reviews of  
27 utilization review decisions by health maintenance organizations.

1 It is a defense for the insurance carrier if the carrier timely  
2 complies with the decision of the independent review organization.

3 (e-3) Notwithstanding Subsections (d) and (e) of this  
4 section or Chapters 4201 and 4202, Insurance Code, a doctor, other  
5 than a dentist or a chiropractor, who performs a utilization review  
6 or an independent review, including a retrospective review, of a  
7 health care service provided to an injured employee is subject to  
8 Section 408.0043. A dentist who performs a utilization review or an  
9 independent review, including a retrospective review, of a dental  
10 service provided to an injured employee is subject to Section  
11 408.0044. A chiropractor who performs a utilization review or an  
12 independent review, including a retrospective review, of a  
13 chiropractic service provided to an injured employee is subject to  
14 Section 408.0045.

15 SECTION 7. Section 413.0512, Labor Code, is amended by  
16 adding Subsection (f) to read as follows:

17 (f) A member of the medical quality review panel, other than  
18 a chiropractor, who reviews a specific workers' compensation case  
19 is subject to Section 408.0043. A chiropractor who reviews a  
20 specific workers' compensation case is subject to Section 408.0045.

21 SECTION 8. The change in law made by this Act applies only  
22 to a review of a health care service provided under a claim for  
23 workers' compensation benefits that is conducted on or after the  
24 effective date of this Act. A review that is conducted before that  
25 date is governed by the law in effect on the date that the review was  
26 conducted, and the former law is continued in effect for that  
27 purpose.

1 SECTION 9. This Act takes effect September 1, 2007.