

1-1 By: Giddings (Senate Sponsor - Lucio) H.B. No. 2004  
1-2 (In the Senate - Received from the House April 12, 2007;  
1-3 April 12, 2007, read first time and referred to Committee on State  
1-4 Affairs; May 3, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 3, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2004 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to requiring that a doctor who reviews a workers'  
1-11 compensation case be certified in a professional specialty  
1-12 appropriate to the care received by the injured employee.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter A, Chapter 408, Labor Code, is  
1-15 amended by adding Sections 408.0043 through 408.0046 to read as  
1-16 follows:

1-17 Sec. 408.0043. PROFESSIONAL SPECIALTY CERTIFICATION  
1-18 REQUIRED FOR CERTAIN REVIEW. (a) This section applies to a person,  
1-19 other than a chiropractor or a dentist, who performs health care  
1-20 services under this title as:

1-21 (1) a doctor performing peer review;

1-22 (2) a doctor performing a utilization review of a  
1-23 health care service provided to an injured employee, including a  
1-24 retrospective review;

1-25 (3) a doctor performing an independent review of a  
1-26 health care service provided to an injured employee, including a  
1-27 retrospective review;

1-28 (4) a designated doctor;

1-29 (5) a doctor performing a required medical  
1-30 examination; or

1-31 (6) a doctor serving as a member of the medical quality  
1-32 review panel.

1-33 (b) A person described by Subsection (a) who reviews a  
1-34 specific workers' compensation case must hold a professional  
1-35 certification in a health care specialty appropriate to the type of  
1-36 health care that the injured employee is receiving.

1-37 Sec. 408.0044. REVIEW OF DENTAL SERVICES. (a) This section  
1-38 applies to a dentist who performs dental services under this title  
1-39 as:

1-40 (1) a doctor performing peer review of dental  
1-41 services;

1-42 (2) a doctor performing a utilization review of a  
1-43 dental service provided to an injured employee, including a  
1-44 retrospective review;

1-45 (3) a doctor performing an independent review of a  
1-46 dental service provided to an injured employee, including a  
1-47 retrospective review; or

1-48 (4) a doctor performing a required dental examination.

1-49 (b) A person described by Subsection (a) who reviews a  
1-50 dental service provided in conjunction with a specific workers'  
1-51 compensation case must be licensed to practice dentistry.

1-52 Sec. 408.0045. REVIEW OF CHIROPRACTIC SERVICES. (a) This  
1-53 section applies to a person who performs services under this title  
1-54 as:

1-55 (1) a doctor performing peer review of chiropractic  
1-56 services;

1-57 (2) a doctor performing a utilization review of a  
1-58 chiropractic service provided to an injured employee, including a  
1-59 retrospective review;

1-60 (3) a doctor performing an independent review of a  
1-61 chiropractic service provided to an injured employee, including a  
1-62 retrospective review;

1-63 (4) a designated doctor providing chiropractic

2-1 services;  
2-2 (5) a doctor performing a required medical  
2-3 examination; or  
2-4 (6) a chiropractor serving as a member of the medical  
2-5 quality review panel.

2-6 (b) A person described by Subsection (a) who reviews a  
2-7 chiropractic service provided in conjunction with a specific  
2-8 workers' compensation case must be licensed to engage in the  
2-9 practice of chiropractic or must be a physician licensed to engage  
2-10 in the practice of medicine who is certified in an appropriate  
2-11 medical specialty.

2-12 Sec. 408.0046. RULES. The commissioner may adopt rules as  
2-13 necessary to determine which professional health practitioner  
2-14 specialties are appropriate for treatment of certain compensable  
2-15 injuries.

2-16 SECTION 2. Section 408.004, Labor Code, is amended by  
2-17 adding Subsection (a-1) to read as follows:

2-18 (a-1) A doctor, other than a chiropractor, who performs a  
2-19 required medical examination under this section is subject to  
2-20 Section 408.0043. A chiropractor who performs a required medical  
2-21 examination under this section is subject to Section 408.0045.

2-22 SECTION 3. Section 408.0041(b), Labor Code, is amended to  
2-23 read as follows:

2-24 (b) A medical examination requested under Subsection (a)  
2-25 shall be performed by the next available doctor on the division's  
2-26 list of designated doctors whose credentials are appropriate for  
2-27 the issue in question and the injured employee's medical condition  
2-28 as determined by commissioner rule. A designated doctor, other than  
2-29 a chiropractor, is subject to Section 408.0043. A designated  
2-30 doctor who is a chiropractor is subject to Section 408.0045. The  
2-31 division shall assign a designated doctor not later than the 10th  
2-32 day after the date on which the request under Subsection (a) is  
2-33 approved, and the examination must be conducted not later than the  
2-34 21st day after the date on which the commissioner issues the order  
2-35 under Subsection (a). An examination under this section may not be  
2-36 conducted more frequently than every 60 days, unless good cause for  
2-37 more frequent examinations exists, as defined by commissioner  
2-38 rules.

2-39 SECTION 4. Section 408.0231(g), Labor Code, is amended to  
2-40 read as follows:

2-41 (g) The commissioner shall adopt rules regarding doctors  
2-42 who perform peer review functions for insurance carriers. Those  
2-43 rules may include standards for peer review, imposition of  
2-44 sanctions on doctors performing peer review functions, including  
2-45 restriction, suspension, or removal of the doctor's ability to  
2-46 perform peer review on behalf of insurance carriers in the workers'  
2-47 compensation system, and other issues important to the quality of  
2-48 peer review, as determined by the commissioner. A doctor who  
2-49 performs peer review under this subtitle must hold the appropriate  
2-50 professional license issued by this state. A doctor, other than a  
2-51 chiropractor or a dentist, who performs peer review is subject to  
2-52 Section 408.0043. A dentist who performs a peer review of a dental  
2-53 service provided to an injured employee is subject to Section  
2-54 408.0044. A chiropractor who performs a peer review of a  
2-55 chiropractic service provided to an injured employee is subject to  
2-56 Section 408.0045.

2-57 SECTION 5. Section 408.1225, Labor Code, is amended by  
2-58 adding Subsection (e) to read as follows:

2-59 (e) A designated doctor, other than a chiropractor, is  
2-60 subject to Section 408.0043. A designated doctor who is a  
2-61 chiropractor is subject to Section 408.0045.

2-62 SECTION 6. Section 413.031, Labor Code, is amended by  
2-63 amending Subsections (d) and (e) and adding Subsection (e-3) to  
2-64 read as follows:

2-65 (d) A review of the medical necessity of a health care  
2-66 service requiring preauthorization under Section 413.014 or  
2-67 commissioner rules under that section or Section 413.011(g) shall  
2-68 be conducted by an independent review organization under Chapter  
2-69 4202 [Article 21.58C], Insurance Code, in the same manner as

3-1 reviews of utilization review decisions by health maintenance  
3-2 organizations. It is a defense for the insurance carrier if the  
3-3 carrier timely complies with the decision of the independent review  
3-4 organization.

3-5 (e) Except as provided by Subsections (d), (f), and (m), a  
3-6 review of the medical necessity of a health care service provided  
3-7 under this chapter or Chapter 408 shall be conducted by an  
3-8 independent review organization under Chapter 4202 [~~Article~~  
3-9 ~~21.58C~~], Insurance Code, in the same manner as reviews of  
3-10 utilization review decisions by health maintenance organizations.  
3-11 It is a defense for the insurance carrier if the carrier timely  
3-12 complies with the decision of the independent review organization.

3-13 (e-3) Notwithstanding Subsections (d) and (e) of this  
3-14 section or Chapters 4201 and 4202, Insurance Code, a doctor, other  
3-15 than a dentist or a chiropractor, who performs a utilization review  
3-16 or an independent review, including a retrospective review, of a  
3-17 health care service provided to an injured employee is subject to  
3-18 Section 408.0043. A dentist who performs a utilization review or an  
3-19 independent review, including a retrospective review, of a dental  
3-20 service provided to an injured employee is subject to Section  
3-21 408.0044. A chiropractor who performs a utilization review or an  
3-22 independent review, including a retrospective review, of a  
3-23 chiropractic service provided to an injured employee is subject to  
3-24 Section 408.0045.

3-25 SECTION 7. Section 413.0512, Labor Code, is amended by  
3-26 adding Subsection (f) to read as follows:

3-27 (f) A member of the medical quality review panel, other than  
3-28 a chiropractor, who reviews a specific workers' compensation case  
3-29 is subject to Section 408.0043. A chiropractor who reviews a  
3-30 specific workers' compensation case is subject to Section 408.0045.

3-31 SECTION 8. The change in law made by this Act applies only  
3-32 to a review of a health care service provided under a claim for  
3-33 workers' compensation benefits that is conducted on or after the  
3-34 effective date of this Act. A review that is conducted before that  
3-35 date is governed by the law in effect on the date that the review was  
3-36 conducted, and the former law is continued in effect for that  
3-37 purpose.

3-38 SECTION 9. This Act takes effect September 1, 2007.

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