

**House Bill 2004**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

- (1) a doctor performing peer review;
- (2) a doctor performing a utilization review of a health care service provided to an injured employee, including a retrospective review;
- (3) a doctor performing an independent review of a health care service provided to an injured employee, including a retrospective review;
- (4) a designated doctor;
- (5) a doctor performing a required medical examination;  
or
- (6) a doctor serving as a member of the medical quality review panel.

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

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

- (1) a doctor performing peer review of dental services;
- (2) a doctor performing a utilization review of a dental

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- (1) a doctor performing peer review;
- (2) a doctor performing a utilization review of a health care service provided to an injured employee, including a retrospective review;
- (3) a doctor performing an independent review of a health care service provided to an injured employee, including a retrospective review;
- (4) a designated doctor;
- (5) a doctor performing a required medical examination;  
or
- (6) a doctor serving as a member of the medical quality review panel.

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

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

- (1) a doctor performing peer review of dental services;
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service provided to an injured employee, including a retrospective review;

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

(4) a doctor performing a required dental examination.

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

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

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

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

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

(4) a designated doctor providing chiropractic services;

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

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

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

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service provided to an injured employee, including a retrospective review;

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

(4) a doctor performing a required dental examination.

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

Sec. 408.0045. REVIEW OF CHIROPRACTIC SERVICES. (a) This section applies to a **person** who performs services under this title as:

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

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

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

(4) a designated doctor providing chiropractic services;

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

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

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

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

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

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

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

(b) A medical examination requested under Subsection (a) shall be performed by the next available doctor on the division's list of designated doctors whose credentials are appropriate for the issue in question and the injured employee's medical condition as determined by commissioner rule. A designated doctor, other than a chiropractor, is subject to Section 408.0043. A

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physician licensed to engage in the practice of medicine who is certified in an appropriate medical specialty.

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

The rules adopted under this section must require an entity requesting a peer review to obtain and provide to the doctor providing peer review services all relevant and updated medical records.

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designated doctor who is a chiropractor is subject to Section 408.0045. The division shall assign a designated doctor not later than the 10th day after the date on which the request under Subsection (a) is approved, and the examination must be conducted not later than the 21st day after the date on which the commissioner issues the order under Subsection (a). An examination under this section may not be conducted more frequently than every 60 days, unless good cause for more frequent examinations exists, as defined by commissioner rules.

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

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

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who performs a peer review of a chiropractic service provided to an injured employee is subject to Section 408.0045.

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

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

Same as House version.

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

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

(e) Except as provided by Subsections (d), (f), and (m), a review of the medical necessity of a health care service provided under this chapter or Chapter 408 shall be conducted by an independent review organization under Chapter 4202 [~~Article 21.58C~~], Insurance Code, in the

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same manner as reviews of utilization review decisions by health maintenance organizations. It is a defense for the insurance carrier if the carrier timely complies with the decision of the independent review organization.

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

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

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

SECTION 8. The change in law made by this Act

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applies only to a review of a health care service provided under a claim for workers' compensation benefits that is conducted on or after the effective date of this Act. A review that is conducted before that date is governed by the law in effect on the date that the review was conducted, and the former law is continued in effect for that purpose.

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

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