

By: Bonnen

H.B. No. 4326

A BILL TO BE ENTITLED

AN ACT

relating to the direction of utilization review by physicians.

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

SECTION 1. Section [4201.152](#), Insurance Code, is amended to read as follows:

Sec. 4201.152. UTILIZATION REVIEW UNDER DIRECTION OF PHYSICIAN. A utilization review agent shall conduct utilization review under the direction of a physician licensed to practice medicine in this state. The physician may not hold a license to practice administrative medicine under Section [155.009](#), Occupations Code.

SECTION 2. Subchapter [M](#), Chapter [4201](#), Insurance Code, is amended by adding Section 4201.6015 to read as follows:

Sec. 4201.6015. INQUIRY BY TEXAS MEDICAL BOARD. (a) If the Texas Medical Board believes that a physician has directed a utilization review in an arbitrary manner or without a medical basis or receives a complaint with that allegation, the Texas Medical Board:

(1) shall notify the physician of the allegation; and
(2) may compel the production of documents or other information as necessary to determine whether the utilization review was directed in an arbitrary manner or without a medical basis.

(b) An inquiry and determination under this section is

1 limited to whether the utilization review was directed in an
2 arbitrary manner or without a medical basis in accordance with the
3 standards of medical practice. If the commissioner initiates a
4 proceeding under Section 4201.601 in relation to the same
5 utilization review for which the inquiry is being conducted, the
6 Texas Medical Board shall suspend the inquiry until the conclusion
7 of the commissioner's proceeding.

8 SECTION 3. The heading to Section 4201.602, Insurance Code,
9 is amended to read as follows:

10 Sec. 4201.602. ENFORCEMENT PROCEEDINGS [~~PROCEEDING~~].

11 SECTION 4. Section 4201.602(a), Insurance Code, is amended
12 to read as follows:

13 (a) The commissioner may initiate a proceeding under
14 Section 4201.601 [this subchapter]. The Texas Medical Board may
15 initiate a proceeding under Section 4201.6015.

16 SECTION 5. Section 4201.603, Insurance Code, is amended to
17 read as follows:

18 Sec. 4201.603. REMEDIES AND PENALTIES; EMERGENCY REMEDIES
19 [~~FOR VIOLATION~~]. (a) If the commissioner determines that a
20 utilization review agent, health maintenance organization,
21 insurer, or other person or entity conducting utilization review
22 has violated or is violating this chapter, the commissioner may:

- 23 (1) impose a sanction under Chapter 82;
24 (2) issue a cease and desist order under Chapter 83; or
25 (3) assess an administrative penalty under Chapter 84.

26 (b) The Texas Medical Board may restrict, suspend, or revoke
27 the license of a physician the board determines has directed a

1 utilization review in an arbitrary manner or without a medical
2 basis at the conclusion of a proceeding conducted under Section
3 4201.6015.

4 (c) If a utilization review results in the serious injury or
5 death of the individual who is the subject of the review, the
6 commissioner may temporarily prohibit a physician who directed the
7 review from directing utilization review and the Texas Medical
8 Board may temporarily suspend the physician's license. The
9 commissioner or Texas Medical Board, as applicable, shall conduct a
10 proceeding under Section 4201.601 or 4201.6015, as applicable,
11 regarding the utilization review, and the prohibition or suspension
12 is effective until the conclusion of the proceeding.

13 SECTION 6. Section 151.002(a)(13), Occupations Code, is
14 amended to read as follows:

15 (13) "Practicing medicine" means:

16 (A) the diagnosis, treatment, or offer to treat a
17 mental or physical disease or disorder or a physical deformity or
18 injury by any system or method, or the attempt to effect cures of
19 those conditions, by a person who:

20 (i) ~~(A)~~ publicly professes to be a
21 physician or surgeon; or

22 (ii) ~~(B)~~ directly or indirectly charges
23 money or other compensation for those services; and

24 (B) the direction of utilization review
25 conducted by a utilization review agent under Section 4201.152,
26 Insurance Code.

27 SECTION 7. The change in law made by this Act applies only

1 to utilization review conducted on or after the effective date of
2 this Act. Utilization review conducted before the effective date of
3 this Act is governed by the law as it existed immediately before the
4 effective date of this Act, and that law is continued in effect for
5 that purpose.

6 SECTION 8. This Act takes effect September 1, 2023.