

SUBJECT: Texas license for physicians reviewing workers' comp disputed claims

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 9 ayes — Giddings, Elkins, Bailey, Bohac, Castro, Darby, Martinez, Solomons, Zedler

0 nays

WITNESSES: For — S. Michael Dean, Texas Orthopaedic Association; (*Registered, but did not testify*: Michael W. Cunningham, Texas Building and Construction Trades Council, AFL-CIO; Rick Levy, Texas AFL-CIO; Lee Medley, United Steelworkers; Stephen Norwood, Texas Medical Association; John Pike, Texas Orthopaedic Association)

Against — (*Registered, but did not testify*: Cathy Stoebner DeWitt, Texas Association of Business; Joe Woods, Property Casualty Insurers Association of America)

On — (*Registered, but did not testify*: Albert Betts, Texas Department of Insurance, Division of Workers' Compensation; Margaret Lazaretti, Texas Department of Insurance; Amy Lee, Texas Department of Insurance; Robert Simpson, Texas Medical Board; Brian White, Office of Injured Employee Counsel)

BACKGROUND: In 2001, the 77th Legislature enacted HB 2600 by Brimer, which amended the Labor Code to require review of disputed claims of workers' compensation benefits by independent review organizations (IROs) composed of doctors and other health care providers.

Prior to 2001, IROs — established under Insurance Code, ch. 4202 (formerly art. 21.58C) — were authorized only for reviews related to health maintenance organizations. The oversight of IROs rests with the commissioner of the Texas Department of Insurance (TDI).

DIGEST: HB 1003 would amend the Labor Code and Insurance Code to specify that an IRO could use only doctors licensed in Texas to perform reviews of workers' compensation benefit claims. The bill would place in the Labor Code the definition of "independent review organization" that appears in

Insurance Code, sec. 1305.004(a)(11). Finally, the bill would make non-substantive changes to reflect re-codifications in the new Insurance Code.

The bill would take effect September 1, 2007, and would apply to a review of health care services for workers' compensation benefits that was conducted on or after that date.

**SUPPORTERS
SAY:**

HB 1003 would ensure that only doctors licensed in Texas could review cases and issue determinations regarding disputed workers' compensation benefit claims. IROs are the last word in the dispute resolution process, and frequently they have physicians performing reviews of disputed issues. However, doctors participating in IROs currently do not have to be licensed in Texas. By requiring all doctors reviewing workers' compensation claims to have a Texas medical license, HB 1006 would increase the accountability of physician reviewers.

The Texas Medical Board (TMB) does not have jurisdiction to discipline doctors licensed in other states. Under current law, the commissioner of insurance has oversight for IROs. Texas should not continue to place primary responsibility with TDI to "police" medical care directed by out-of-state doctors. The Legislature should eliminate out-of-state doctors in the review process and make the TMB the controlling authority over the conduct of all doctors who make decisions affecting injured workers in Texas.

**OPPONENTS
SAY:**

By limiting utilization review to Texas physicians, this bill could cause future problems with finding a sufficient number of physicians qualified to conduct these reviews because the process of licensing physicians in Texas is slow. Currently, it takes TMB approximately six months to issue an uncomplicated license.

NOTES:

The committee substitute would apply to review of health care services provided under a claim for workers' compensation benefits, rather than a claim based on a compensable injury, that occurred on or after the effective date. It also would amend the Insurance Code, in addition to the Labor Code, to specify that an IRO would be required to use doctors licensed in Texas to perform review of health care services for workers' compensation claim benefits. Finally, the substitute would define "independent review organization" in the Labor Code according to the definition found in the Insurance Code and would make conforming changes to reflect the re-codifications in the new Insurance Code.

A related bill, HB 1006 by Giddings, also set on today's General State Calendar, would require that a utilization review agent or insurance carrier that performed workers' compensation reviews of health care services use only physicians licensed to practice in Texas.

A related bill, HB 2004 by Giddings, which would require that a doctor who reviewed a workers' compensation case be certified in a professional specialty appropriate to the care received by an injured employee, was heard by the Business and Industry Committee on March 20.