



## ADVISORY NO. 512

### **TOPIC: Utilization Review Changes in Senate Bill 1742 Now in Effect**

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Senate Bill 1742 amended portions of the Texas Insurance Code and the Texas Labor Code in several ways and will affect the manner in which Utilization Review, Independent Review and Peer Review can be conducted in Texas. Portions of the bill apply directly to Texas workers' compensation claims both in and out of Health Care Networks.

The bill implements two broad changes. First, it imposes a Texas licensure requirement in a number of different areas. Second, it requires that doctors performing peer reviews, utilization reviews or independent reviews be of the same or a similar specialty as the physician performing the service.

For workers' comp purposes, the bill requires that doctors hold Texas licenses in the following instances:

- Where a utilization review agent or an insurance carrier uses doctors to perform reviews of health care services in connection with an HCN. Amending § 1305.351(d).
- Where an independent review organization uses doctors to perform reviews of health care services in connection with an HCN. Amending § 1305.355(d).
- Where a utilization review agent or an insurance carrier uses doctors to perform reviews of health care services provided under the Texas Workers' Compensation Act, including utilization review. Amending § 408.023(h).
- Where an independent review organization uses doctors to perform reviews of health care services provided under the Texas Workers' Compensation Act. Amending § 413.031(e-2).

In addition, an amendment to § 408.0043 requires a peer review doctor or a doctor performing utilization review of a health care service or independent review of a

health care service to be of the same or a similar specialty as the physician whose service is being reviewed.

The changes affecting the Workers' Compensation Act and the Texas Healthcare Network Act became effective September 1, 2019.

The bill also made a number of changes to the Insurance Code outside the context of the Workers' Compensation Act. Those requirements are summarized below:

**Texas Insurance Code Chapter 4201 (Utilization Review and Independent Review)**

- § 4201.002(12) (redefines "provider of record")
- § 4201.151 (additional Texas license requirements)
- § 4201.152 (additional Texas license requirements)
- § 4201.155 (health benefit policy or plan must fully comply with this chapter)
- § 4201.206 (opportunity to discuss treatment must be with a physician)
- § 4201.251 (UR delegation doesn't release URA)
- § 4201.252(a) (UR personnel must have applicable licensing requirements)
- § 4201.252 (b) (UR personnel who obtain information regarding specific medical condition, diagnosis, or treatment options or protocols must be a nurse, physician assistant, or other qualified health care provider.)
- § 4201.356 (decision by physician required; specialty review)
- § 4201.357(a) (expedited review of denial of emergency or life-threatening care)
- § 4201.453 (UR plan for specialty UR requires review by appropriate specialist with Texas license.
- § 4201.454 (conforming changes)
- § 4201.455(a) (Specialty URA must satisfy applicable licensing laws)
- § 4201.456 (conforming changes)

If you have questions regarding the changes reflected in this advisory, please contact Steve Tipton, James Sheffield or Bobby Stokes.