CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/27/16

Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and House of Representatives on 5/11/98 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

On the part of the Senate

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

150/94
A BILL TO BE ENTITLED

AN ACT

relating to maintenance of certification by a physician or an applicant for a license to practice medicine in this state.

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

SECTION 1. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1461 to read as follows:

CHAPTER 1461. DISCRIMINATION AGAINST PHYSICIAN BASED ON MAINTENANCE OF CERTIFICATION

Sec. 1461.001. DEFINITIONS. In this chapter:

(1) "Enrollee" means an individual who is eligible to receive health care services under a managed care plan.

(2) "Maintenance of certification" has the meaning assigned by Section 151.002, Occupations Code.

(3) "Managed care plan" means a health benefit plan under which health care services are provided to enrollees through contracts with physicians and that requires enrollees to use participating physicians or that provides a different level of coverage for enrollees who use participating physicians. The term includes a health benefit plan issued by:

(A) a health maintenance organization;

(B) a preferred provider benefit plan issuer; or

(C) any other entity that issues a health benefit plan, including an insurance company.

(4) "Participating physician" means a physician who
S.B. No. 1148

has directly or indirectly contracted with a health benefit plan
issuer to provide services to enrollees.

   (5) "Physician" means an individual licensed to
practice medicine in this state.

Sec. 1461.002. APPLICABILITY. (a) This chapter applies to
a physician regardless of whether the physician is a participating
physician.

   (b) This chapter applies to a person with whom a managed
care plan issuer contracts to:

          (1) process or pay claims;
          (2) obtain the services of physicians to provide
health care services to enrollees; or
          (3) issue verifications or preauthorizations.

Sec. 1461.003. DISCRIMINATION BASED ON MAINTENANCE OF
CERTIFICATION. (a) Except as provided by Subsection (b), a
managed care plan issuer may not differentiate between physicians
based on a physician's maintenance of certification in regard to:

         (1) paying the physician;
         (2) reimbursing the physician; or
         (3) directly or indirectly contracting with the
physician to provide services to enrollees.

   (b) A managed care plan issuer may differentiate between
physicians based on a physician's maintenance of certification only
if the designation under law or certification or accreditation by a
national certifying or accrediting organization of an entity
described by Section 151.0515(a), Occupations Code, is contingent
on the entity requiring a specific maintenance of certification by
physicians seeking staff privileges or credentialing at the entity.

SECTION 2. Section 151.002(a), Occupations Code, is amended
by adding Subdivision (6-b) to read as follows:

(6-b) "Maintenance of certification" means the
satisfactory completion of periodic recertification requirements
that are required for a physician to maintain certification after
initial certification from:

(A) a medical specialty member board of the
American Board of Medical Specialties;

(B) a medical specialty member board of the
American Osteopathic Association Bureau of Osteopathic
Specialists;

(C) the American Board of Oral and Maxillofacial
Surgery; or

(D) any other certifying board that is recognized
by the Texas Medical Board.

SECTION 3. Subchapter B, Chapter 151, Occupations Code, is
amended by adding Section 151.0515 to read as follows:

Sec. 151.0515. DISCRIMINATION BASED ON MAINTENANCE OF
CERTIFICATION. (a) Except as otherwise provided by this section,
the following entities may not differentiate between physicians
based on a physician's maintenance of certification:

(1) a health facility that is licensed under Subtitle
B, Title 4, Health and Safety Code, or a mental hospital that is
licensed under Chapter 577, Health and Safety Code, if the facility
or hospital has an organized medical staff or a process for
credentialing physicians;
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(2) a hospital that is owned or operated by this state;

(3) an institution or program that is owned, operated,
or licensed by this state, including an institution or program that
directly or indirectly receives state financial assistance, if the
institution or program:

(A) has an organized medical staff or a process
for credentialing physicians on its staff; and

(B) is not a medical school, as defined by
Section 61.501, Education Code, or a comprehensive cancer center,
as designated by the National Cancer Institute; or

(4) an institution or program that is owned, operated,
or licensed by a political subdivision of this state, if the
institution or program has an organized medical staff or a process
for credentialing physicians on its staff.

(b) An entity described by Subsection (a) may differentiate
between physicians based on a physician's maintenance of
certification if:

(1) the entity's designation under law or
certification or accreditation by a national certifying or
accrediting organization is contingent on the entity requiring a
specific maintenance of certification by physicians seeking staff
privileges or credentialing at the entity; and

(2) the differentiation is limited to those physicians
whose maintenance of certification is required for the entity's
designation, certification, or accreditation as described by
Subdivision (1).

(c) An entity described by Subsection (a) may differentiate
between physicians based on a physician's maintenance of certification if the voting physician members of the entity's organized medical staff vote to authorize the differentiation.

(d) An authorization described by Subsection (c) may:

(1) be made only by the voting physician members of the entity's organized medical staff and not by the entity's governing body, administration, or any other person;

(2) subject to Subsection (e), establish terms applicable to the entity's differentiation, including:

(A) appropriate grandfathering provisions; and

(B) limiting the differentiation to certain medical specialties; and

(3) be rescinded at any time by a vote of the voting physician members of the entity's organized medical staff.

(e) Terms established under Subsection (d)(2) may not conflict with a maintenance of certification requirement applicable to the entity's designation under law or certification or accreditation by a national certifying or accrediting organization.

SECTION 4. Section 155.003, Occupations Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) Except as provided by Subsection (d-1), in addition to the other requirements prescribed by this subtitle, the board may require an applicant to comply with other requirements that the board considers appropriate.

(d-1) The board may not require maintenance of
certification by an applicant for the applicant to be eligible for a
license under this chapter.

SECTION 5. Section 156.001, Occupations Code, is amended by
adding Subsection (f) to read as follows:

(f) The board may not adopt a rule requiring maintenance of
certification by a license holder for the license holder to be
eligible for an initial or renewal registration permit.

SECTION 6. This Act takes effect January 1, 2018.
SECTION 1. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1461 to read as follows:

CHAPTER 1461. DISCRIMINATION AGAINST PHYSICIAN BASED ON MAINTENANCE OF CERTIFICATION

Sec. 1461.001. DEFINITIONS. In this chapter:
(1) "Enrollee" means an individual who is eligible to receive health care services under a managed care plan.
(2) "Maintenance of certification" has the meaning assigned by Section 151.002, Occupations Code.
(3) "Managed care plan" means a health benefit plan under which medical care services are provided to enrollees through contracts with physicians and that requires enrollees to use participating physicians or that provides a different level of coverage for enrollees who use participating physicians. The term includes a health benefit plan issued by:
(A) a health maintenance organization;
(B) a preferred provider benefit plan issuer; or
(C) any other entity that issues a health benefit plan, including an insurance company.
(4) "Participating physician" means a physician who has directly or indirectly contracted with a health benefit plan issuer to provide services to enrollees.
(5) "Physician" means a person licensed to practice medicine in this state.

Sec. 1461.002. APPLICABILITY. (a) This chapter applies to a physician regardless of whether the physician is a participating physician.
(b) This chapter applies to a person to whom a managed care plan issuer contracts to:
(1) process or pay claims;
(2) obtain the services of physicians to provide medical care

Senate Bill 1148
Conference Committee Report
Section-by-Section Analysis

SECTION 1. Same as House version.
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Section-by-Section Analysis

SENATE VERSION

services to enrollees; or
(3) issue verifications or preauthorizations.
Sec. 1461.003. DISCRIMINATION BASED ON
MAINTENANCE OF CERTIFICATION. (a) Except as
provided by Subsection (b), a managed care plan issuer may
not differentiate between physicians based on a physician's
maintenance of certification in regard to:
(1) paying the physician;
(2) reimbursing the physician; or
(3) directly or indirectly contracting with the physician to
provide services to enrollees.
(b) A managed care plan issuer may differentiate between
physicians based on a physician's maintenance of certification
only:
(1) if the entity that administers the physician's
maintenance of certification is certified under Chapter 170,
Occupations Code; and
(2) after the issuer considers the physician's:
(A) training;
(B) experience;
(C) competence; and
(D) judgment.
(c) A managed care plan issuer may not differentiate
between physicians based on the entity that administers a
physician's maintenance of certification.

SECTION 2. Section 151.002(a), Occupations Code, is
amended.

SECTION 3. Subchapter A, Chapter 151, Occupations Code,
is amended by adding Section 151.006 to read as follows:
Sec. 151.006. CERTIFICATION OF MEDICAL

HOUSE VERSION (IE)

services to enrollees; or
(3) issue verifications or preauthorizations.
Sec. 1461.003. DISCRIMINATION BASED ON
MAINTENANCE OF CERTIFICATION. (a) Except as
provided by Subsection (b), a managed care plan issuer may
not differentiate between physicians based on a physician's
maintenance of certification in regard to:
(1) paying the physician;
(2) reimbursing the physician; or
(3) directly or indirectly contracting with the physician to
provide services to enrollees.
(b) A managed care plan issuer may differentiate between
physicians based on a physician's maintenance of certification
only if the designation under law or certification or
accreditation by a national certifying or accrediting
organization of an entity described by Section 151.0515(a),
Occupations Code, is contingent on the entity requiring a
specific maintenance of certification by physicians seeking
staff privileges or credentialing at the entity.

SECTION 2. Same as Senate version.

No equivalent provision.

CONFERENCE

SECTION 2. Same as Senate version.

Same as House version.

Associated CCR Draft: 85R 34516
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SENATE VERSION

SPECIALTY (a) Notwithstanding any law other than Subsection (b), a physician is considered a board-certified medical specialist in this state if the physician receives initial certification, regardless of the physician's maintenance of certification, from:
(1) a medical specialty member board of the American Board of Medical Specialties;
(2) a medical specialty member board of the American Osteopathic Association Bureau of Osteopathic Specialists;
(3) the American Board of Oral and Maxillofacial Surgery; or
(4) any other certifying board that is recognized by the Texas Medical Board.
(b) Subsection (a) does not apply to a physician:
(1) who holds a medical license that is currently restricted or suspended for cause or has been canceled for cause or revoked by any state, a province of Canada, or a uniformed service of the United States;
(2) who is under an investigation or against whom a proceeding is instituted that may result in a restriction, cancellation, suspension, or revocation of the physician's medical license in any state, a province of Canada, or a uniformed service of the United States; or
(3) who has a prosecution that is pending against the physician in any state, federal, or Canadian court for any offense that under the laws of this state is a misdemeanor involving moral turpitude or a felony.

No equivalent provision.

SECTION 4. Subchapter B, Chapter 151, Occupations Code,

HOUSE VERSION (IE)

Same as Senate version. SECTION 3. Section 151.0515, Occupations Code. [Deleted by FA1]
Section 151.057, Occupations Code. [Deleted by FA2(1)]

No equivalent provision.

SECTION 3. Subchapter B, Chapter 151, Occupations Code,

CONFERENCE

Same as Senate version.
is amended by adding Section 151.0515 to read as follows:

Sec. 151.0515. DISCRIMINATION BASED ON MAINTENANCE OF CERTIFICATION. (a) Except as provided by Subsection (b), the following entities may not differentiate between physicians based on a physician's maintenance of certification:

(1) a health facility that is licensed under Subtitle B, Title 4, Health and Safety Code, if the facility has an organized medical staff or a process for credentialing physicians;

(2) a hospital that is owned or operated by this state;

(3) an institution or program that is owned, operated, or licensed by this state, including an institution or program that directly or indirectly receives state financial assistance, if the institution or program has an organized medical staff or a process for credentialing physicians;

(4) an institution or program that is owned, operated, or licensed by a political subdivision of this state, if the institution or program has an organized medical staff or a process for credentialing physicians on its staff;

(b) An entity described by Subsection (a) may differentiate between physicians based on a physician's maintenance of certification only:

(1) if the entity that administers the physician's maintenance of certification is certified under Chapter 170; and

(2) after the entity considers the physician's:

(A) training;

(3) experience;

(4) board certification;

(5) evidence-based performance;

(6) professional standing;

(7) quality of care;

(8) patient satisfaction;

(9) all other relevant factors;

(10) the entity's designation under law or certification or accreditation by a national certifying or accrediting organization is contingent on the entity requiring a specific maintenance of certification by physicians seeking staff.
(B) experience;
(C) competence; and
(D) judgment.

(c) An entity described by Subsection (a) may not
differentiate between physicians based on the entity that
administers a physician's maintenance of certification.

(d) A state agency, including the Health and Human
Services Commission and the Department of State Health
Services, may not require an entity described by Subsection
(a) to require maintenance of certification by a physician.

No equivalent provision.

SECTION ___. Creates a joint interim committee to study and
assess maintenance of certification of physicians in Texas.

Same as Senate version.
Senate Bill 1148
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Section-by-Section Analysis

SENATE VERSION

No equivalent provision.

HOUSE VERSION (IE)

[FA2(1)]

SECTION 4-5. Provisions regarding the joint interim committee created by SECTION 4. [FA2(1)]

CONFERENCE

Same as Senate version.

SECTIONS 4-5. Same as Senate version.

No equivalent provision.

No equivalent provision.

SECTIONS 4-5. Same as Senate version.

Same as House version.

No equivalent provision.

Same as Senate version. SECTION 6. [Deleted by FA2(2)]

Same as Senate version.

SECTIONS 4-5. Same as Senate version.

No equivalent provision.

SECTIONS 4-5. Same as Senate version.

Same as House version.

SECTIONS 4-5. Same as Senate version.

No equivalent provision.

SECTIONS 4-5. Same as Senate version.

Same as House version.

SECTION 7. Same as Senate version.

Same as Senate version.

SECTION 6. Same as Senate version.
LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 27, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1148 by Buckingham (Relating to maintenance of certification by a physician or an applicant for a license to practice medicine in this state.), Conference Committee Report

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code and the Insurance Code relating to maintenance of certification by a physician or an applicant for a license to practice medicine in this state. The bill would prohibit certain hospitals, institutions, programs, or managed care plan issuer from differentiating between physicians based solely on a physician’s maintenance of certificate. The bill would prohibit the Texas Medical Board (TMB) from requiring maintenance of certificate or adopting a rule that would require maintenance of certificate.

The TMB, The University of Texas System Administration, Texas A&M University System Administrative and General Offices, Department of Insurance, Health and Human Services Commission, and Department of State Health Services anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance, 503 Texas Medical Board, 529 Health and Human Services Commission, 537 State Health Services, Department of, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: UP, KCA, CL, EH, EK, TBo
Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member’s newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on SB 1148 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

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(date) 5. 7. 17