

**SUBJECT:** Eliminating the workers' compensation medical advisory committee

**COMMITTEE:** Business and Industry — favorable, without amendments

**VOTE:** 7 ayes — Brimer, Rhodes, Corte, Elkins, Giddings, Janek, Woolley

0 nays

2 absent — Dukes, Solomons

**WITNESSES:** For — Pam Beachley, Business Insurance Consumers Association; Joe Hanson, Texas Association of Business/Chambers of Commerce

Against — None

**BACKGROUND**  
:  
Section 413 of the Texas Labor Code requires the Texas Workers' Compensation Commission to maintain a division of medical review to monitor for compliance health care providers, insurance carriers, and workers' compensation claimants.

Sec. 413.005 authorizes the establishment of a medical advisory committee to advise the division in developing and administering medical policies, fee guidelines, and utilization guidelines.

**DIGEST:** HB 3038 would repeal sec. 413.005 of the Labor Code, abolish the medical advisory committee, and transfer all property and records belonging to the state to the Texas Workers' Compensation Commission not later than the 30th day after the effective date of the bill.

HB 3038 also would authorize the commission to appoint an ad hoc medical advisory committee as it considers necessary. The bill would take effect immediately if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS SAY:** HB 3038 would eliminate the use of an advisory committee to the Texas Workers' Compensation Commission that is too large and unwieldy to make good decisions on medical issues that are often very narrowly defined. The bill would not eliminate the use of expert health care advise or labor or

consumer input, only the use of the *permanent* medical advisory committee as defined in statute.

The medical advisory committee is composed of 15 members who specifically represent a wide range of interests, such as doctors, dentists, pharmacists, medical equipment suppliers, employees, employers and the general public. However, public interest is not efficiently or effectively served by requiring input or advise from people having little to no knowledge of an issue; for example, little is gained by having a dentist oversee the development of “lower extremity guidelines,” which are guidelines pertaining to the program’s treatment of workers with leg and other lower extremity injuries. Also it is often very difficult to obtain agreement between multiple health care professionals even on the treatment of relatively routine health care matters.

Special subcommittees composed of experts in the field and other interested parties are frequently formed by the medical advisory committee and workers’ compensation commission staff to handle the development of many specific guidelines. HB 713 would *not* eliminate the use of these special committees; in fact, it would specifically authorize the use of medical advisory committees on an ad hoc, or as-needed, basis. Using smaller, more focused committees would be a more productive use of staff and volunteer expert time. Specialized ad-hoc committees could also incorporate the viewpoints of other health care professionals not on the medical advisory committee, such as psychologists and other mental health professionals.

Eliminating the statutorily established medical advisory committee would not constitute a significant change. The commission is under no requirement to heed the advise of the committee. However, because the commission is concerned with public and expert input, it will continue to rely on ad hoc advisory committees to guide proposals and decision making.

Some appointments to the medical advisory committee have been delayed by disagreements within particular professions over the nominees selected despite commission efforts to approve appointments in a timely manner. These problems only demonstrate the need for ad hoc advisory committees rather than a formal, unwieldy structure.

OPPONENTS  
SAY:

The existing medical advisory committee works well, at no cost to the workers' compensation commission, and should be retained. HB 3038 would eliminate much needed oversight and input into commission decision making and would offer no assurance that ad hoc medical advisory committees would be established, or if established, that the chosen advisors would represent a sufficient balance of interests and concerns.

The breadth of the medical advisory committee membership provides a sound forum for the consideration of diverse viewpoints or interests regarding economically and medically complex health care matters and reduces the potential for regulations or guidelines that can have unintended negative consequences. Fifteen members does not make for an unusually large or unwieldy committee — many public and private boards and committees operate with memberships that size and greater. Problems, if any, associated with asking members to review issues or proposals on subjects in which they may be unfamiliar are a small price to pay for a thorough review and consideration of important health care matters.

Working with special subcommittees alone does not always provide appropriate advice or sufficient input, and the commission could willfully or otherwise inappropriately seek advise only from special interests with high financial stakes in the workers' compensation program. For example, fee guidelines initially proposed by commission staff with the help of insurance representatives would have inappropriately cut some provider fees by as much as 55 percent, and would have significantly reduced provider participation rates and injured workers' access to needed health services.

OTHER  
OPPONENTS  
SAY:

The medical advisory committee should not only be retained, but improved. Other health care professionals not represented on the committee, such as psychologists, should be included. Also, the commission should be required to approve committee membership in a timely manner. It took the commission 19 months to approve the appointment of the individual representing osteopathic doctors, and almost two and a half years to approve the nurse appointment, leaving these providers without review of or input into the development of the commission's medically related proposals.

HB 3038  
House Research Organization  
page 4