

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1767  
By: Watson  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, a physician who performs a utilization review on a workers' compensation case can be licensed in another state as long as that physician performs the review under the direction of a doctor licensed in this state. However, a conflicting law requires peer reviews in workers' compensation cases that do not involve medical necessity to be performed by a doctor licensed in this state.

If in-state doctors are deciding the extent of injury, in-state doctors should be deciding the course of treatment. There is no reason for the state to take this business outside of the state as there are enough Texas doctors to perform such reviews. Furthermore, there is no reason for this state to treat reviews of certain medical issues differently and there is no justification for allowing a doctor not licensed in this state to practice in this state. According to a study conducted by the Workers' Compensation Research and Evaluation Group, there is little difference in result between reviews performed by in-state and out-of-state doctors for preauthorization. However, out-of-state doctors are more likely than in-state doctors to deny treatment retrospectively.

As proposed, S.B. 1767 requires doctors performing utilization review, retrospective review, and peer review to be licensed in this state. This bill also makes nonsubstantive corrections in citation to refer to the newly re-codified utilization review statute.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the commissioner of insurance and the Texas Workers' Compensation Commission is modified and transferred to the commissioner of workers' compensation in SECTION 3 (Section 4201.054, Insurance Code) and SECTION 4 (Section 4201.207, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 408.023(h), Labor Code, to authorize, notwithstanding Section 4201.152 (Utilization Review Under Direction of Physician), rather than 4(h), Article 21.58A, Insurance Code, a utilization review agent that uses doctors to perform reviews of health care services provided under this subtitle (Texas Workers' Compensation Act) to only use doctors licensed to practice in this state, rather than authorizing such an agent to use doctors licensed by another state to perform the reviews, but requiring the reviews to be performed under the direction of a doctor licensed to practice in this state.

SECTION 2. Amends Section 408.0231(e), Labor Code, to make a conforming change.

SECTION 3. (a) Amends Sections 4201.054(a) and (d), Insurance Code, as effective April 1, 2007, to conform to Section 6.072, Chapter 265, Acts of the 79th Legislature, Regular Session, as follows:

- (a) Requires the commissioner of workers' compensation, rather than the commissioner of insurance, to regulate, as provided by this chapter (Utilization Review Agents), a person who performs utilization review of a medical benefit provided under Title 5 (Protection of Consumer Interests), rather than Chapter 408, Insurance Code.

(d) Authorizes the commissioner of workers' compensation, rather than the commissioner of insurance and the Texas Workers' Compensation Commission, to adopt rules as necessary to implement this section. Deletes existing text authorizing the commissioner of insurance and the Texas Workers' Compensation Commission to enter into memoranda of understanding as necessary to implement this section.

(b) Repealer: Section 4201.054(b) (regarding workers' compensation benefits), Insurance Code, to conform to Section 6.072, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005.

(c) Repealer: Section 6.072 (regarding utilization review of health care services provided to persons eligible for workers' compensation medical benefits under Title 5, Labor Code), Chapter 265, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 4. (a) Amends Section 4201.207(b), Insurance Code, as effective April 1, 2007, to conform to Section 6.071, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, as follows:

(b) Prohibits a health care provider's charges for providing medical information to a utilization review agent from exceeding the cost of copying records regarding a workers' compensation claim as set by rules adopted by the commissioner of workers' compensation, rather than by the Texas Workers' Compensation Commission.

(b) Repealer: Section 6.071 (regarding a health care provider's charges for providing medical information to a utilization review agent), Chapter 265, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Provides that to the extent of any conflict, this Act prevails over another Act of the 80th Legislature, Regular Session, 2007, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7. Effective date: September 1, 2007.