

# HOUSE BILL No. 4056

January 8, 1997, Introduced by Rep. Varga and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
(MCL 500.100 to 500.8302) by adding section 2219.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1        SEC. 2219. (1) AS USED IN THIS SECTION:  
2        (A) "INDEPENDENT MEDICAL EXAMINATION" MEANS A HEALTH CARE  
3 PROVIDER'S DIRECT EXAMINATION OF A PATIENT TO EVALUATE THE APPRO-  
4 PRIATENESS OF TREATMENT OR CARE PROVIDED THAT PATIENT BY A TREAT-  
5 ING HEALTH CARE PROVIDER.  
6        (B) "UTILIZATION REVIEW" MEANS THE EVALUATION OF THE NECES-  
7 SITY, APPROPRIATENESS, AND EFFICIENCY OF THE USE OF A HEALTH CARE  
8 SERVICE, PROCEDURE, OR FACILITY. UTILIZATION REVIEW DOES NOT  
9 INCLUDE TECHNICAL ANALYSIS OF A BILL FOR ACCURACY OR  
10 COMPLETENESS.

1 (2) A DISABILITY OR AUTOMOBILE INSURER REQUIRING A  
2 UTILIZATION REVIEW SHALL COMPLY WITH THIS SECTION.

3 (3) AN INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW FOR AN  
4 INSURER SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

5 (A) POSSESS THE SAME TYPE OF HEALTH CARE PROVIDER LICENSE AS  
6 THE TREATING HEALTH CARE PROVIDER, AND ADDITIONALLY BE CERTIFIED  
7 IN THE TREATING HEALTH CARE PROVIDER'S SPECIALTY OR PRIMARY AREA  
8 OF PRACTICE BY AN ORGANIZATION OR EDUCATIONAL INSTITUTION  
9 APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH.

10 (B) HAVE AT LEAST 7 YEARS' ACTIVE EXPERIENCE IN THE TYPE OF  
11 CLINICAL PRACTICE THAT IS BEING REVIEWED.

12 (C) DERIVE AT LEAST 65% OF HIS OR HER ANNUAL INCOME FROM  
13 ACTIVE PATIENT CARE, AND ENGAGE IN ACTIVE PATIENT CARE NOT LESS  
14 THAN AN AVERAGE OF 24 HOURS PER WEEK.

15 (D) HAVE COMPLETED AT LEAST 10 HOURS OF CONTINUING EDUCATION  
16 IN THE SPECIALTY OR PRIMARY AREA OF PRACTICE OF THE TREATING  
17 HEALTH CARE PROVIDER.

18 (E) NOT HAVE BEEN DETERMINED IN AN ADMINISTRATIVE OR OTHER  
19 PROCEEDING TO HAVE VIOLATED ANY LAW GOVERNING HIS OR HER PRACTICE  
20 OR SPECIALTY WITHIN THE 7-YEAR PERIOD PRECEDING THE INDEPENDENT  
21 MEDICAL EXAMINATION.

22 (4) AN INSURER SHALL NOT PROVIDE, AND AN INDIVIDUAL WHO PER-  
23 FORMS A UTILIZATION REVIEW FOR AN INSURER SHALL NOT RECEIVE, ANY  
24 FINANCIAL INCENTIVE BASED UPON THE NUMBER OF ADVERSE UTILIZATION  
25 REVIEW DETERMINATIONS MADE BY THE INDIVIDUAL PERFORMING THE UTIL-  
26 IZATION REVIEW.

1 (5) AN INSURER SHALL INFORM A TREATING HEALTH CARE PROVIDER  
2 AND THE PATIENT IF A TREATMENT IS TO BE REVIEWED.

3 (6) THE TREATING HEALTH CARE PROVIDER OR HIS OR HER REPRESENTATIVE AND A REPRESENTATIVE OF THE PATIENT MAY BE PRESENT AT  
4 AN INDEPENDENT MEDICAL EXAMINATION AND MAY RECORD THE ENTIRE  
5 EXAMINATION BY ANY MEANS.

7 (7) THE PERSON CONDUCTING AN INDEPENDENT MEDICAL EXAMINATION  
8 MAY RECORD THE EXAMINATION AND MAY ADDITIONALLY REQUIRE A WITNESS  
9 TO BE PRESENT.

10 (8) IF AN INSURER REQUIRES AN INDEPENDENT MEDICAL EXAMINATION TO VERIFY THE APPROPRIATENESS OF TREATMENT BY A TREATING  
11 HEALTH CARE PROVIDER, ALL OF THE FOLLOWING APPLY:

13 (A) THE EXAMINATION MAY BE ORDERED SOLELY IF THE TREATMENT  
14 EXTENDS BEYOND ESTABLISHED PROTOCOLS.

15 (B) THE PATIENT SHALL RECEIVE NOTICE OF THE FIRST INDEPENDENT MEDICAL EXAMINATION AT LEAST 5 BUSINESS DAYS IN ADVANCE OF  
16 THAT EXAMINATION.

18 (C) INDEPENDENT MEDICAL EXAMINATIONS THAT ARE SUBSEQUENT TO  
19 THE FIRST EXAMINATION MAY BE ORDERED AT REASONABLE INTERVALS, BUT  
20 SHALL NOT EXCEED 1 PER MONTH FOR A MAXIMUM OF 6 PER YEAR FOR EACH  
21 CONDITION BEING TREATED, ABSENT THE CONSENT OF THE PATIENT AND  
22 THE TREATING HEALTH CARE PROVIDER.

23 (D) IF THE EXERCISE OF A PATIENT'S RIGHT CONFERRED UNDER  
24 THIS SECTION IS PROHIBITED BY THE PERSON DESIGNATED TO PERFORM  
25 THE EXAMINATION, THE PATIENT IS NOT REQUIRED TO SUBMIT TO THE  
26 EXAMINATION, AND AN INSURER THAT DENIED OR WITHHELD BENEFITS  
27 PENDING THE EXAMINATION SHALL IMMEDIATELY PROVIDE THE BENEFITS.

1       (9) IF THE RESULTS OF AN INDEPENDENT MEDICAL EXAMINATION  
2 ESTABLISH THAT THE HEALTH CARE PROVIDED BY THE TREATING HEALTH  
3 CARE PROVIDER WAS APPROPRIATE, AND THE INSURER FAILS TO PAY FOR  
4 THAT HEALTH CARE WITHIN 30 DAYS AFTER THE EXAMINATION, THE  
5 INSURER SHALL PAY TO THE TREATING HEALTH CARE PROVIDER A SUM  
6 EQUIVALENT TO TWICE THE TREATING HEALTH CARE PROVIDER'S FEE PLUS  
7 10% FOR THE HEALTH CARE DETERMINED APPROPRIATE. ANY FEES  
8 INCURRED BEFORE NOTIFICATION OF AN INDEPENDENT MEDICAL EXAMINA-  
9 TION OR NOTIFICATION OF THE TERMINATION OF BENEFITS SHALL BE PAID  
10 IN FULL BEFORE THE INDEPENDENT MEDICAL EXAMINATION. IF TREATMENT  
11 OR CARE IS TERMINATED OR DENIED DUE TO AN INDEPENDENT MEDICAL  
12 EXAMINATION AND SUBSEQUENTLY DETERMINED TO HAVE BEEN APPROPRIATE,  
13 THE INSURER SHALL PAY ALL FEES, INCLUDING ATTORNEY FEES, INCURRED  
14 BY THE INSURED AS A RESULT OF THE TERMINATION OR DENIAL.

15       (10) THE PERSON CONDUCTING AN INDEPENDENT MEDICAL EXAMINA-  
16 TION OR UTILIZATION REVIEW SHALL PROVIDE THE PATIENT, THE  
17 PATIENT'S TREATING HEALTH CARE PROVIDER, AND THE PERSON REQUEST-  
18 ING THE EXAMINATION OR REVIEW A COPY OF THE EXAMINATION RESULTS  
19 NOT MORE THAN 14 DAYS AFTER THE EXAMINATION OR REVIEW.