

HOUSE BILL No. 4057

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

A bill to amend 1980 PA 350, entitled
"The nonprofit health care corporation reform act,"
(MCL 550.1101 to 550.1704) by adding section 401e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 401E. (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 HEALTH CARE CORPORATION REQUIRING A UTILIZATION REVIEW
2 SHALL COMPLY WITH THIS SECTION.

3 (3) AN INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW REQUIRED
4 BY A HEALTH CARE CORPORATION SHALL MEET ALL OF THE FOLLOWING
5 REQUIREMENTS:

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

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

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

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

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

23 (4) A HEALTH CARE CORPORATION SHALL NOT PROVIDE, AND AN
24 INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW FOR A HEALTH CARE
25 CORPORATION SHALL NOT RECEIVE, ANY FINANCIAL INCENTIVE BASED UPON
26 THE NUMBER OF ADVERSE UTILIZATION REVIEW DETERMINATIONS MADE BY
27 THE INDIVIDUAL PERFORMING THE UTILIZATION REVIEW.

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

3 (6) THE TREATING HEALTH CARE PROVIDER OR HIS OR HER REPRE-
4 SENTATIVE AND A REPRESENTATIVE OF THE PATIENT MAY BE PRESENT AT
5 AN INDEPENDENT MEDICAL EXAMINATION AND MAY RECORD THE ENTIRE
6 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 A HEALTH CARE CORPORATION REQUIRES AN INDEPENDENT
11 MEDICAL EXAMINATION TO VERIFY THE APPROPRIATENESS OF TREATMENT BY
12 A TREATING 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 INDEPEN-
16 DENT MEDICAL EXAMINATION AT LEAST 5 BUSINESS DAYS IN ADVANCE OF
17 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 A HEALTH CARE CORPORATION THAT DENIED OR

1 WITHHELD BENEFITS PENDING THE EXAMINATION SHALL IMMEDIATELY
2 PROVIDE THE BENEFITS.

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

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