



# HOUSE BILL No. 5415

November 28, 1995, Introduced by Rep. Varga and referred to the Committee on Insurance.

A bill to amend Act No. 350 of the Public Acts of 1980, entitled as amended

"The nonprofit health care corporation reform act," as amended, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws, by adding section 401e.

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

1 Section 1. Act No. 350 of the Public Acts of 1980, as  
2 amended, being sections 550.1101 to 550.1704 of the Michigan  
3 Compiled Laws, is amended by adding section 401e to read as  
4 follows:

5 SEC. 401E. (1) AS USED IN THIS SECTION:

6 (A) "INDEPENDENT MEDICAL EXAMINATION" MEANS A HEALTH CARE  
7 PROVIDER'S DIRECT EXAMINATION OF A PATIENT TO EVALUATE THE  
8 APPROPRIATENESS OF TREATMENT OR CARE PROVIDED THAT PATIENT BY A  
9 TREATING HEALTH CARE PROVIDER.

1 (B) "UTILIZATION REVIEW" MEANS THE EVALUATION OF THE  
2 NECESSITY, APPROPRIATENESS, AND EFFICIENCY OF THE USE OF A HEALTH  
3 CARE SERVICE, PROCEDURE, OR FACILITY. UTILIZATION REVIEW DOES  
4 NOT INCLUDE TECHNICAL ANALYSIS OF A BILL FOR ACCURACY OR  
5 COMPLETENESS.

6 (2) A HEALTH CARE CORPORATION REQUIRING A UTILIZATION REVIEW  
7 SHALL COMPLY WITH THIS SECTION.

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

11 (A) POSSESS THE SAME TYPE OF HEALTH CARE PROVIDER LICENSE AS  
12 THE TREATING HEALTH CARE PROVIDER, AND ADDITIONALLY BE CERTIFIED  
13 IN THE TREATING HEALTH CARE PROVIDER'S SPECIALTY OR PRIMARY AREA  
14 OF PRACTICE BY AN ORGANIZATION OR EDUCATIONAL INSTITUTION  
15 APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH.

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

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

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

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

1 (4) A HEALTH CARE CORPORATION SHALL NOT PROVIDE, AND AN  
2 INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW FOR A HEALTH CARE  
3 CORPORATION SHALL NOT RECEIVE, ANY FINANCIAL INCENTIVE BASED UPON  
4 THE NUMBER OF ADVERSE UTILIZATION REVIEW DETERMINATIONS MADE BY  
5 THE INDIVIDUAL PERFORMING THE UTILIZATION REVIEW.

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

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

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

15 (8) IF A HEALTH CARE CORPORATION REQUIRES AN INDEPENDENT  
16 MEDICAL EXAMINATION TO VERIFY THE APPROPRIATENESS OF TREATMENT BY  
17 A TREATING HEALTH CARE PROVIDER, ALL OF THE FOLLOWING APPLY:

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

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

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

1 (D) IF THE EXERCISE OF A PATIENT'S RIGHT CONFERRED UNDER  
2 THIS SECTION IS PROHIBITED BY THE PERSON DESIGNATED TO PERFORM  
3 THE EXAMINATION, THE PATIENT IS NOT REQUIRED TO SUBMIT TO THE  
4 EXAMINATION, AND A HEALTH CARE CORPORATION THAT DENIED OR WITH-  
5 HELD BENEFITS PENDING THE EXAMINATION SHALL IMMEDIATELY PROVIDE  
6 THE BENEFITS.

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

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