

HOUSE BILL No. 4058

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

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding sections 2226a and 21050a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2226A. THE DEPARTMENT SHALL PROMULGATE RULES TO ESTAB-
2 LISH THE CRITERIA FOR APPROVING THOSE ORGANIZATIONS AND EDUCA-
3 TIONAL INSTITUTIONS THAT CERTIFY INDIVIDUALS WHO PERFORM INDEPEN-
4 DENT MEDICAL EXAMINATIONS. AS USED IN THIS SECTION, "INDEPENDENT
5 MEDICAL EXAMINATION" MEANS THAT TERM AS DEFINED IN SECTION
6 21050A.

7 SEC. 21050A. (1) AS USED IN THIS SECTION:

8 (A) "INDEPENDENT MEDICAL EXAMINATION" MEANS A HEALTH CARE
9 PROVIDER'S DIRECT EXAMINATION OF A PATIENT TO EVALUATE THE
10 APPROPRIATENESS OF TREATMENT OR CARE PROVIDED THAT PATIENT BY A
11 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 MAINTENANCE ORGANIZATION REQUIRING A UTILIZA-
7 TION REVIEW SHALL COMPLY WITH THIS SECTION.

8 (3) AN INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW FOR A
9 HEALTH MAINTENANCE ORGANIZATION 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 MAINTENANCE ORGANIZATION SHALL NOT PROVIDE, AND
2 AN INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW FOR A HEALTH
3 MAINTENANCE ORGANIZATION SHALL NOT RECEIVE, ANY FINANCIAL INCEN-
4 TIVE BASED UPON THE NUMBER OF ADVERSE UTILIZATION REVIEW DETERMI-
5 NATIONS MADE BY THE INDIVIDUAL PERFORMING THE UTILIZATION
6 REVIEW.

7 (5) A HEALTH MAINTENANCE ORGANIZATION SHALL INFORM A TREAT-
8 ING HEALTH CARE PROVIDER AND THE PATIENT IF A TREATMENT IS TO BE
9 REVIEWED.

10 (6) THE TREATING HEALTH CARE PROVIDER OR HIS OR HER REPRE-
11 SENTATIVE, AND A REPRESENTATIVE OF THE PATIENT, MAY BE PRESENT AT
12 AN INDEPENDENT MEDICAL EXAMINATION AND MAY RECORD THE ENTIRE
13 EXAMINATION BY ANY MEANS.

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

17 (8) IF A HEALTH MAINTENANCE ORGANIZATION REQUIRES AN INDE-
18 PENDENT MEDICAL EXAMINATION TO VERIFY THE APPROPRIATENESS OF
19 TREATMENT BY A TREATING HEALTH CARE PROVIDER, ALL OF THE FOLLOW-
20 ING APPLY:

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

23 (B) THE PATIENT SHALL RECEIVE NOTICE OF THE FIRST INDEPEN-
24 DENT MEDICAL EXAMINATION AT LEAST 5 BUSINESS DAYS IN ADVANCE OF
25 THAT EXAMINATION.

26 (C) INDEPENDENT MEDICAL EXAMINATIONS THAT ARE SUBSEQUENT TO
27 THE FIRST EXAMINATION MAY BE ORDERED AT REASONABLE INTERVALS, BUT

1 SHALL NOT EXCEED 1 PER MONTH FOR A MAXIMUM OF 6 PER YEAR FOR EACH
2 CONDITION BEING TREATED, ABSENT THE CONSENT OF THE PATIENT AND
3 THE TREATING HEALTH CARE PROVIDER.

4 (D) IF THE EXERCISE OF A PATIENT'S RIGHT CONFERRED UNDER
5 THIS SECTION IS PROHIBITED BY THE PERSON DESIGNATED TO PERFORM
6 THE EXAMINATION, THE PATIENT IS NOT REQUIRED TO SUBMIT TO THE
7 EXAMINATION, AND A HEALTH MAINTENANCE ORGANIZATION THAT DENIED OR
8 WITHHELD BENEFITS PENDING THE EXAMINATION SHALL IMMEDIATELY PRO-
9 VIDE THE BENEFITS.

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

26 (10) THE PERSON CONDUCTING AN INDEPENDENT MEDICAL
27 EXAMINATION OR UTILIZATION REVIEW SHALL PROVIDE THE PATIENT, THE

- 1 PATIENT'S TREATING HEALTH CARE PROVIDER, AND THE PERSON
- 2 REQUESTING THE EXAMINATION OR REVIEW A COPY OF THE EXAMINATION
- 3 RESULTS NOT MORE THAN 14 DAYS AFTER THE EXAMINATION OR REVIEW.