

Insurance and Real Estate Committee

SENATE FAVORABLE REPORT

Bill No.: SB-335

AN ACT CONCERNING THE ROLE OF CLINICAL PEERS IN ADVERSE

Title: DETERMINATION AND UTILIZATION REVIEWS.

Vote Date: 3/10/2020

Vote Action: Joint Favorable

PH Date: 3/5/2020

File No.:

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SPONSORS OF BILL:

Insurance and Real Estate Committee

REASONS FOR BILL:

This bill will (1) Redefine "clinical peer" for the purposes of adverse determination and utilization reviews; and (2) require health carriers to provide certain clinical peers with the authority to reverse initial adverse determinations.

RESPONSE FROM ADMINISTRATION/AGENCY:

Ted Doolittle, Healthcare Advocate for the State of CT support this act. Connecticut consumers rely on a robust and well-founded peer review system for reviewing benefits determinations and claim denials. This bill requires peer reviewers to be trained and board-certified in the specialty that is relevant to the determination. While it should seem self-evident that a peer reviewer should be a specialist in the area in which the determination is made, it is not always the case. Indeed, the experience of this office is that it is more often not the case. Without relevant specialization, the peer review process is not fair to the consumer or to the carrier, whose interests are, at least in theory, aligned on securing high-value care for the consumer. A reviewer who does not have the right specialty is less likely to identify and authorize high-value care. Carriers may claim that this bill is not necessary because they are already using peer reviewers to review determinations within the reviewer's specialty. If they are already doing this, then this law will not require them to change

NATURE AND SOURCES OF SUPPORT:

Connecticut Orthopaedic Society feel the current adverse determination and utilization review policies utilized by insurers have a negative impact on the efficient and effective care and treatment of our patients. A health insurance company can deem any treatment as

medically unnecessary and place the burden of proof for medical necessity on patients and their physician. The insurance industry's process for physicians to satisfy the insurer's requirement of "proof" for medical necessity is arduous, confusing and time consuming, leaving some patients with no recourse but to delay or forgo treatment all together. Delay in care is often a key reason for patients to suffer permanent or irreversible harm. SB 335 would provide the physician with the opportunity to confer with a clinical peer who could reverse an initial adverse determination, saving valuable treatment time for the patient while enabling the physician to speak directly with another physician with similar clinical knowledge and understanding. Furthermore, the insurance company's utilization reviewers may or may not (and often do not) have expertise in the specific field of medicine they are reviewing, and thus are oftentimes unable to comprehend the complexity of a given patient's condition and recommended treatment. Senate Bill 335 would change the criteria and definition of clinical peer bringing the expertise, education and training on par with the physician caring for the patient thereby saving valuable treatment time for the patient. When formulating a treatment plan, physicians employ their education, expertise, clinical guidelines and best practices to customize the care required for the patient in light of that particular patient's medical history and response to previous treatments. If an insurance company contends the value and effectiveness of the treatment plan for our patient, then the insurer should have to provide well documented proof of why the treatment was deemed medically unnecessary and furthermore, this should be done in a timely and effective manner.

Katherine Reilly, RN, MS, A-CCC, Gaylord Hospital urge your support of SB 335 so that a Clinical Peer making an adverse determination or utilization review is licensed in the same or similar specialty as the treating physician or other health care professional who manages the medical condition, procedure or treatment. Denials of care should only be allowed when they are being made by qualified clinicians in order to ensure safe and appropriate care for patients.

NATURE AND SOURCES OF OPPOSITION:

Michelle Rakebrand, Assistance Counsel for CBIA alters the adverse determination and utilization review. The bill gives clinical peers the authority to reverse initial adverse determinations after it has been issued by insurer, resulting in the expense of increased time and resources on the determination.

CT Association of Health Plans feel changing the definition "clinical peer" as drafted would reverberate throughout state statute as there are many provisions that tie back to the definition. Utilization review would grind to a halt and health care costs would rise dramatically. S.B. 335 would completely logjam the current approval process as it's almost impossible to ensure, given the sheer volume of requests processed, that initial medical necessity determinations, adverse determinations and concurrent and prospective reviews would be made by a physician in the same exact specialty as the requester let alone from one within the boundaries of CT.

Nor would you necessarily want to limit a reviewer to CT if the particular expertise exists outside the state.

Reported by: Diane Kubeck

Date: March 26, 2020