

By the Committee on Health, Aging and Long-Term Care; and
Senator Cowin

317-785C-00

1 A bill to be entitled
2 An act relating to adverse determinations;
3 amending s. 458.331, F.S.; including the
4 rendering of an adverse determination
5 inconsistent with a certain standard as a
6 ground for disciplinary action against a
7 physician; amending s. 459.015, F.S.; including
8 the rendering of an adverse determination
9 inconsistent with a certain standard as a
10 ground for disciplinary action against an
11 osteopathic physician, amending s. 641.51,
12 F.S., relating to quality assurance program
13 requirements for certain managed care
14 organizations; restricting the rendering of
15 adverse determinations to certain physicians
16 regarding certain services; requiring the
17 submission of facts and documentation
18 pertaining to rendered adverse determinations;
19 providing a timeframe for organizations to
20 submit facts and documentation to providers and
21 subscribers, in writing, of adverse
22 determinations; requiring physicians who render
23 adverse determinations to sign the facts and
24 documentation statement; providing an effective
25 date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Paragraph (nn) is added to subsection (1)
30 of section 458.331, Florida Statutes, to read:

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1 458.331 Grounds for disciplinary action; action by the
2 board and department.--

3 (1) The following acts shall constitute grounds for
4 which the disciplinary actions specified in subsection (2) may
5 be taken:

6 (nn) Rendering an adverse determination as defined in
7 s. 641.47(1) which is inconsistent with the level of care,
8 skill, and treatment that is recognized by a reasonably
9 prudent similar physician as being acceptable under similar
10 conditions and circumstances.

11 Section 2. Paragraph (pp) is added to subsection (1)
12 of section 459.015, Florida Statutes, to read:

13 459.015 Grounds for disciplinary action by the
14 board.--

15 (1) The following acts shall constitute grounds for
16 which the disciplinary actions specified in subsection (2) may
17 be taken:

18 (pp) Rendering an adverse determination as defined in
19 s. 641.47(1) which is inconsistent with the level of care,
20 skill, and treatment that is recognized by a reasonably
21 prudent similar osteopathic physician as being acceptable
22 under similar conditions and circumstances.

23 Section 3. Present subsections (4), (5), (6), (7),
24 (8), (9), and (10) of section 641.51, Florida Statutes, are
25 redesignated as subsections (5), (6), (7), (8), (9), (10), and
26 (11), respectively, and a new subsection (4) is added to that
27 section to read:

28 641.51 Quality assurance program; second medical
29 opinion requirement.--

30 (4) The organization shall ensure that only a
31 physician licensed under chapter 458 or chapter 459 may render

1 an adverse determination regarding a service provided by a
2 physician licensed under chapter 458 or chapter 459 and shall
3 require the physician to submit to the provider and the
4 subscriber the facts and documentation regarding the
5 organization's adverse determination within 2 working days
6 after the subscriber or provider is notified of the adverse
7 determination. The facts and documentation must be written,
8 include the utilization review criteria or benefits provisions
9 used in the adverse determination, and be signed by the
10 physician rendering the adverse determination. The
11 organization must include with the notification of an adverse
12 determination information concerning the appeal process for
13 adverse determinations.

14 Section 4. This act shall take effect July 1, 2000.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 162

Deletes language changing the definitions of the "practice of medicine" and the "practice of osteopathic medicine" that added reference to the modification or denial of certain treatment plans.

Adds to the respective lists of grounds for disciplinary actions against allopathic physicians and osteopathic physicians another reason for disciplinary action that is based on rendering an adverse determination which is inconsistent with certain specified conduct of a similar physician when acting under similar conditions and circumstances.

Amends state managed care regulatory law to require managed care organizations to authorize only a Florida-licensed medical or osteopathic physician to render an adverse determination for services provided by a Florida-licensed medical or osteopathic physician regarding the delivery of covered services or benefits. A physician who makes an adverse determination on behalf of a managed care organization is required to submit written, signed facts and documentation regarding the adverse determination within 2 working days to the subscriber and health care provider requesting the service or product on behalf of the subscriber, along with information on the appeal process for challenging an adverse determination, and including the utilization review criteria or benefits provisions on which the adverse determination is based.