

AN ACT

relating to maintenance of certification by a physician or an applicant for a license to practice medicine in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1461 to read as follows:

CHAPTER 1461. DISCRIMINATION AGAINST PHYSICIAN BASED ON MAINTENANCE OF CERTIFICATION

Sec. 1461.001. DEFINITIONS. In this chapter:

(1) "Enrollee" means an individual who is eligible to receive health care services under a managed care plan.

(2) "Maintenance of certification" has the meaning assigned by Section 151.002, Occupations Code.

(3) "Managed care plan" means a health benefit plan under which health care services are provided to enrollees through contracts with physicians and that requires enrollees to use participating physicians or that provides a different level of coverage for enrollees who use participating physicians. The term includes a health benefit plan issued by:

(A) a health maintenance organization;

(B) a preferred provider benefit plan issuer; or

(C) any other entity that issues a health benefit plan, including an insurance company.

(4) "Participating physician" means a physician who

1 has directly or indirectly contracted with a health benefit plan
2 issuer to provide services to enrollees.

3 (5) "Physician" means an individual licensed to
4 practice medicine in this state.

5 Sec. 1461.002. APPLICABILITY. (a) This chapter applies to
6 a physician regardless of whether the physician is a participating
7 physician.

8 (b) This chapter applies to a person with whom a managed
9 care plan issuer contracts to:

10 (1) process or pay claims;

11 (2) obtain the services of physicians to provide
12 health care services to enrollees; or

13 (3) issue verifications or preauthorizations.

14 Sec. 1461.003. DISCRIMINATION BASED ON MAINTENANCE OF
15 CERTIFICATION. (a) Except as provided by Subsection (b), a
16 managed care plan issuer may not differentiate between physicians
17 based on a physician's maintenance of certification in regard to:

18 (1) paying the physician;

19 (2) reimbursing the physician; or

20 (3) directly or indirectly contracting with the
21 physician to provide services to enrollees.

22 (b) A managed care plan issuer may differentiate between
23 physicians based on a physician's maintenance of certification only
24 if the designation under law or certification or accreditation by a
25 national certifying or accrediting organization of an entity
26 described by Section 151.0515(a), Occupations Code, is contingent
27 on the entity requiring a specific maintenance of certification by

1 physicians seeking staff privileges or credentialing at the entity.

2 SECTION 2. Section 151.002(a), Occupations Code, is amended
3 by adding Subdivision (6-b) to read as follows:

4 (6-b) "Maintenance of certification" means the
5 satisfactory completion of periodic recertification requirements
6 that are required for a physician to maintain certification after
7 initial certification from:

8 (A) a medical specialty member board of the
9 American Board of Medical Specialties;

10 (B) a medical specialty member board of the
11 American Osteopathic Association Bureau of Osteopathic
12 Specialists;

13 (C) the American Board of Oral and Maxillofacial
14 Surgery; or

15 (D) any other certifying board that is recognized
16 by the Texas Medical Board.

17 SECTION 3. Subchapter B, Chapter 151, Occupations Code, is
18 amended by adding Section 151.0515 to read as follows:

19 Sec. 151.0515. DISCRIMINATION BASED ON MAINTENANCE OF
20 CERTIFICATION. (a) Except as otherwise provided by this section,
21 the following entities may not differentiate between physicians
22 based on a physician's maintenance of certification:

23 (1) a health facility that is licensed under Subtitle
24 B, Title 4, Health and Safety Code, or a mental hospital that is
25 licensed under Chapter 577, Health and Safety Code, if the facility
26 or hospital has an organized medical staff or a process for
27 credentialing physicians;

1 (2) a hospital that is owned or operated by this state;

2 (3) an institution or program that is owned, operated,
3 or licensed by this state, including an institution or program that
4 directly or indirectly receives state financial assistance, if the
5 institution or program:

6 (A) has an organized medical staff or a process
7 for credentialing physicians on its staff; and

8 (B) is not a medical school, as defined by
9 Section 61.501, Education Code, or a comprehensive cancer center,
10 as designated by the National Cancer Institute; or

11 (4) an institution or program that is owned, operated,
12 or licensed by a political subdivision of this state, if the
13 institution or program has an organized medical staff or a process
14 for credentialing physicians on its staff.

15 (b) An entity described by Subsection (a) may differentiate
16 between physicians based on a physician's maintenance of
17 certification if:

18 (1) the entity's designation under law or
19 certification or accreditation by a national certifying or
20 accrediting organization is contingent on the entity requiring a
21 specific maintenance of certification by physicians seeking staff
22 privileges or credentialing at the entity; and

23 (2) the differentiation is limited to those physicians
24 whose maintenance of certification is required for the entity's
25 designation, certification, or accreditation as described by
26 Subdivision (1).

27 (c) An entity described by Subsection (a) may differentiate

1 between physicians based on a physician's maintenance of
2 certification if the voting physician members of the entity's
3 organized medical staff vote to authorize the differentiation.

4 (d) An authorization described by Subsection (c) may:

5 (1) be made only by the voting physician members of the
6 entity's organized medical staff and not by the entity's governing
7 body, administration, or any other person;

8 (2) subject to Subsection (e), establish terms
9 applicable to the entity's differentiation, including:

10 (A) appropriate grandfathering provisions; and

11 (B) limiting the differentiation to certain
12 medical specialties; and

13 (3) be rescinded at any time by a vote of the voting
14 physician members of the entity's organized medical staff.

15 (e) Terms established under Subsection (d)(2) may not
16 conflict with a maintenance of certification requirement
17 applicable to the entity's designation under law or certification
18 or accreditation by a national certifying or accrediting
19 organization.

20 SECTION 4. Section 155.003, Occupations Code, is amended by
21 amending Subsection (d) and adding Subsection (d-1) to read as
22 follows:

23 (d) Except as provided by Subsection (d-1), in [~~In~~] addition
24 to the other requirements prescribed by this subtitle, the board
25 may require an applicant to comply with other requirements that the
26 board considers appropriate.

27 (d-1) The board may not require maintenance of

1 certification by an applicant for the applicant to be eligible for a
2 license under this chapter.

3 SECTION 5. Section 156.001, Occupations Code, is amended by
4 adding Subsection (f) to read as follows:

5 (f) The board may not adopt a rule requiring maintenance of
6 certification by a license holder for the license holder to be
7 eligible for an initial or renewal registration permit.

8 SECTION 6. This Act takes effect January 1, 2018.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1148 passed the Senate on April 27, 2017, by the following vote: Yeas 31, Nays 0; May 25, 2017, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2017, House granted request of the Senate; May 28, 2017, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 1148 passed the House, with amendments, on May 24, 2017, by the following vote: Yeas 140, Nays 4, one present not voting; May 26, 2017, House granted request of the Senate for appointment of Conference Committee; May 28, 2017, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 2, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor