

1 SENATE BILL NO. 446
2 INTRODUCED BY V. RICCI, C. SCHOMER, E. BUTTREY, C. HINKLE, J. ETCHART, L. DEMING, J. KARLEN,
3 B. MITCHELL
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO HEALTH UTILIZATION REVIEW;
6 REQUIRING A PHYSICIAN LICENSED IN THE STATE TO MAKE OR REVIEW AN ADVERSE
7 DETERMINATION OR REVIEW A GRIEVANCE; AND PROVIDING FOR AUTOMATIC APPROVAL OF A
8 HEALTH CARE SERVICE UNDER REVIEW IF A HEALTH INSURANCE ISSUER OR UTILIZATION REVIEW
9 ORGANIZATION FAILS TO COMPLY WITH REQUIREMENTS."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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13 **NEW SECTION. Section 1. Qualifications of individuals who make or review adverse**
14 **determinations.** (1) Only a physician may make an adverse determination pursuant to 33-32-211 or 33-32-212
15 for a utilization review organization.

- 16 (2) A physician who makes an adverse determination:
- 17 (a) must possess a current, valid nonrestricted license to practice medicine ~~under Title 37, chapter~~
18 ~~3, part 3;~~
 - 19 (b) must have a specialty that focuses on the diagnosis and treatment of the condition being
20 reviewed; and
 - 21 (c) shall make the adverse determination under the clinical direction of one of the utilization review
22 organization's medical directors who is responsible for the oversight of the utilization review activities. A
23 medical director used for this purpose must be a physician licensed in the state.

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25 **NEW SECTION. Section 2. Qualifications of individuals who review grievance.** (1) Only a
26 physician may review a grievance as provided under 33-32-308 or 33-32-309 for a utilization review
27 organization.

- 28 (2) A physician who reviews a grievance:

1 (a) must possess a current, valid nonrestricted license to practice medicine ~~under Title 37, chapter~~
2 ~~3, part 3;~~

3 (b) must have the same specialty as a health care provider who typically manages the medical
4 condition or disease or provides the health care service that is the subject of the grievance;

5 (c) must have experience treating patients with the medical condition or disease that is the subject
6 of the grievance; and

7 (d) shall review the grievance under the clinical direction of one of the utilization review
8 organization's medical directors who is responsible for the oversight of the utilization review activities. A
9 medical director used for this purpose must be a physician licensed in the state.

10 (3) A physician who reviews a grievance may not:

11 (a) have been directly involved in making the adverse determination that is the subject of the
12 grievance; and

13 (b) have a financial interest in the outcome of the grievance.
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15 **NEW SECTION. Section 3. Failure by health insurance issuer or utilization review organization**
16 **to comply with law -- automatic authorization of health care service.** If a health insurance issuer or its
17 contracted utilization review organization fails to comply with the requirements of 33-32-211, 33-32-212, 33-32-
18 308, 33-32-309, [section 1], or [section 2], the health care service subject to review is automatically deemed
19 authorized by the health insurance issuer or its contracted utilization review organization.
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21 **NEW SECTION. Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as
22 an integral part of Title 33, chapter 32, part 2, and the provisions of Title 33, chapter 32, part 2, apply to [section
23 1].

24 (2) [Section 2] is intended to be codified as an integral part of Title 33, chapter 32, part 3, and the
25 provisions of Title 33, chapter 32, part 3, apply to [section 2].

26 (3) [Section 3] is intended to be codified as an integral part of Title 33, chapter 32, part 1, and the
27 provisions of Title 33, chapter 32, part 1, apply to [section 3].
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