SENATE BILL REPORT

SB 5813

As Reported By Senate Committee On:
Health & Long-Term Care, March 3, 1999

Title: An act relating to health plan medical director licensure and accountability.

Brief Description: Requiring third-party payors to designate a licensed medical director for its coverage decisions.

Sponsors: Senators Thibaudeau, Deccio, Costa and Winsley.

Brief History:
Committee Activity: Health & Long-Term Care: 2/24/99, 3/3/99 [DPS].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5813 be substituted therefor, and the substitute bill do pass.
Signed by Senators Thibaudeau, Chair; Wojahn, Vice Chair; Costa, Deccio, Franklin and Winsley.

Staff: Jonathan Seib (786-7427)

Background: The term utilization review– is often used to describe a range of managed care cost containment strategies including monitoring a provider's pattern of treatment, determining the medical necessity of certain types or levels of treatment, and evaluating the efficacy, appropriateness or efficiency of certain treatments for certain health conditions. Concerns regarding the qualifications and accountability of those who are performing these sorts of activities have increased as managed care financing arrangements have come to dominate health insurance.

Although relevant standards with which insurers may voluntarily comply have been developed by national accrediting organizations, the issue is not currently addressed under state law.

The Uniform Disciplinary Act provides standardized procedures for "the enforcement of laws the purpose of which is to assure the public of the adequacy of professional competence and conduct in the healing arts." Among other things, it defines and disciplines acts of "unprofessional conduct" by health care practitioners.

Summary of Substitute Bill: Every health insurer is required to designate a medical director, who must be licensed in Washington as an allopathic (M.D.) or osteopathic (D.O.) physician. Health insurer is defined to include health carriers, the Department of Labor and Industries, the Health Care Authority, the Medical Assistance Administration, and any self-insured health plan subject to the jurisdiction of the state.

For purposes of applying the Uniform Disciplinary Act, any decision by a health insurer to deny or limit payment for certain services because the services are not medically necessary is deemed to be the decision of the medical director. The services covered are those to be provided by an M.D., D.O., P.A., or A.R.N.P. The Medical Quality Assurance Commission and the State Board of Osteopathic Medicine and Surgery may adopt rules to implement this section of the act.

Substitute Bill Compared to Original Bill: Among others, the original bill applied to all self-insured plans, and to property/casualty insurance plans. The substitute bill does not. The substitute bill reorganizes, simplifies and clarifies the language of the original bill, and explicitly applies the Uniform Disciplinary Act to actions of the medical director.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill does not regulate who within an insurance entity makes denial decisions based on medical necessity, but does identify who will be responsible for those decisions and holds those people administratively accountable. The bill imposes no liability beyond administrative sanctions. Those who are responsible for denial decisions based on medical necessity should be held accountable to their professional licensing board in the same way that their counterparts are accountable when making clinical decisions.

Testimony Against: The bill is confusing and inappropriate. The language could be interpreted to supercede contracts and to provide a basis for civil liability actions against health insurers. The bill would have the Medical Quality Assurance Commission regulating health insurance companies, including those who provide property and casualty insurance, which makes little sense. Legal obligations on health insurance companies must be codified under Title 48.

Testified: PRO: Andrew Dolan, Washington State Medical Association; Jeff Larsen, WOMA, WAPA; CON: Jim Halstrom, Health Care Purchasers Association, Association of Washington Business; Rick Wickman, Blue Cross; Basil Badley, HIAA; Sally Yates, Group Health.