

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

BILL NUMBER: SB 636
AUTHOR: Cortese
BILL DATE: August 24, 2023, Amended
SUBJECT: Workers' Compensation: Utilization Review
SPONSOR: AFSCME
California Neurology Society
Union of American Physicians and Dentists
POSITION: Support

DESCRIPTION OF CURRENT LEGISLATION

Effective January 1, 2025, requires a physician who modifies or denies a treatment plan for an injured worker, pursuant to a utilization review (UR) of a workers' compensation claim for a private employer, to be licensed in California.

SB 636 has not been amended in a manner contrary to the Support position adopted by the Medical Board of California (Board).

RECENT AMENDMENTS

On August 24, 2023, SB 636 was amended, as follows:

- Recasts the language related to physicians to state that a physician must be licensed in California and competent to evaluate the specific clinical issues involved in medical treatment services to deny or modify an authorization for medical treatment.
- Removes the language that required a psychologist involved in UR to be licensed in California.

BACKGROUND

Existing law establishes the workers' compensation system, administered by the [Division of Workers' Compensation](#) within the Department of Industrial Relations and requires employers to secure payment of workers' compensation for injuries incurred by employees that arise out of, and in the course of, employment.

ANALYSIS

According to the author's fact sheet:

"[UR] is an insurance company's use of a medical professional to review then approve, modify, or deny treatment recommendations by the doctor who

interviewed or examined the patient. This review is based on what the insurance company considers to be medically necessary.

Under current law, insurance companies may employ medical professionals licensed in any state to perform UR. As a result, medical professionals not licensed in California are exempt from regulation and discipline by the Medical Board of California and the California Division of Workers' Compensation. When these medical professionals wrongfully modify or deny claims, there is no regulatory structure to hold them accountable for malpractice.

The medical professionals performing UR, under current law, are not required to have the same training as the medical professionals making treatment recommendations. These medical professionals not licensed in California may also be unfamiliar with workers' compensation law and requirements specific to California.”

This bill states that, effective January 1, 2025, only a physician licensed in California who is competent to evaluate the relevant clinical issues may modify or deny an authorization for medical treatment related to a workers' compensation claim. At least two states have adopted a similar requirement: Texas and Tennessee.

Arguments from Opponents

Opponents generally argue that this bill will undermine the use of UR by limiting the number of doctors available to conduct UR. Further, they state that the bill is based on a misunderstanding of the role of doctors performing UR, which is an objective application of evidence-based guidelines ensuring that subjective determinations are not made.

FISCAL: Unknown volume of new license applications (and related fee revenue) and unknown potential enforcement costs related to complaints or investigations that a UR physician violated the law.

SUPPORT: Amer. Federation of State, County, and Municipal Employees
California Chiropractic Association
California Conference of Machinists
California Medical Association

OPPOSITION: Association of California Healthcare Districts
American Property Casualty Insurance Association
California Association of Joint Powers Authorities
California Chamber of Commerce
California Coalition on Workers Compensation
Zenith Insurance Company (partial list)

ATTACHMENT: [SB 636, Cortese – Workers' Compensation: Utilization Review](#)
Version: 8/24/23 – Amended