HOUSE BILL 569
By Dennis

SENATE BILL 1338

By Watson

AN ACT to amend Tennessee Code Annotated, Title 56 and Title 63, relative to radiology services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The general assembly makes the following findings:

(1) Health plans and health insurers are engaging the services of individuals and organizations to act as radiology benefit managers;

(2) Radiology benefit managers are making decisions about the appropriateness of medical services recommended for a patient by a treating physician, and are directing alternative treatments or testing, without the benefit of any direct contact between the patient and the radiology benefit manager;

(3) The actions of radiology benefit managers in denying authorization for medical services that have been recommended by a treating physician, or in directing alternative treatments or testing, are having a direct and adverse impact on the health of Tennessee citizens; and

(4) Decisions to deny authorization for medical services recommended by a treating physician, or to direct alternative treatments or testing, are being made by individuals who are not licensed to practice medicine in the state of Tennessee, and who are operating in this state without any regulation or oversight by an agency of the state.

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 7, Part 1, is amended by adding the following as new sections:

56-7-134.

(a) As used in this section:

(2)(A) “Health insurer” includes a health insurance entity as that term is defined in § 56-7-109, a managed health insurance issuer as defined in § 56-32-128(a), a health coverage plan, health maintenance organization licensed to practice pursuant to this title, a health program administered by the state or its political subdivisions, including the TennCare programs administered pursuant to the waivers approved by the United States department of health and human services, nonprofit insurance companies, prepaid plans, self-insured entities, and all other corporations, entities or persons, or an employer, labor union, or other group of persons organized in the state that provide health coverage to covered individuals who are employed or reside in the state. “Health insurer” does not include a health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, medicare supplement, disability income, or other long-term care;

(3)(B) “Radiology benefits manager” means a person, business or other entity, and any wholly or partially owned subsidiary of the entity, that administers diagnostic radiology and imaging benefits in any health plan or policy of insurance that provides coverage for diagnostic radiology testing;

(1) “Diagnostic radiology testing” includes the following diagnostic tests: X-ray, computerized tomography, magnetic resonance imaging, positron emission tomography, fluoroscopy, ultrasound, and nuclear imaging studies including cardiac nuclear imaging;

(4) “Treating physician” is a medical doctor licensed under title 63 chapter 6 or chapter 9, and who orders or recommends to a patient a diagnostic

radiology test that is based upon an in-person medical examination of the patient for whom the test is ordered or recommended.

(b) If a health insurance policy or health plan provides coverage for diagnostic radiology testing, and if a treating physician presents an order or recommendation for a diagnostic radiology test to a radiology benefits manager for authorization, a decision to deny authorization of the treating physician's order or recommendation shall only be made by a medical doctor licensed in this state and subject to the regulation of the board of medical examiners. Along with any decision to deny an authorization for diagnostic radiology testing, the treating physician and the patient shall be furnished with the full name, mailing address, telephone number, and employer of the radiology benefits manager physician who is making the denial decision. In every case in which authorization to perform a diagnostic radiology test is given by a health insurer or by a radiology benefits manager which is contracted to provide utilization review services for the health insurer, that authorization shall be conclusive to satisfy any requirement of medical necessity in a health insurer's policy, plan or schedule of benefits, and the provider's subsequently-filed claim for payment for such services shall not be denied but shall be timely paid, unless there was fraud on the part of the provider in procuring the authorization.

SECTION 3. Tennessee Code Annotated, Section 63-6-204(a)(1), is amended by adding the following language to the end of the subdivision: "A person who countermands the treatment order or recommendation of a treating physician, by any means or manner that is intended to influence the patient to refuse a recommended service or to elect to receive a different service than the service ordered or recommended by the treating physician, shall be deemed to be practicing medicine in this state."

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.