

INSURANCE CODE

TITLE 8. HEALTH INSURANCE AND OTHER HEALTH COVERAGES SUBTITLE F. PHYSICIANS AND HEALTH CARE PROVIDERS CHAPTER 1451. ACCESS TO CERTAIN PRACTITIONERS AND FACILITIES SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1451.001. DEFINITIONS; HEALTH CARE PRACTITIONERS. In this chapter:

- (1) "Acupuncturist" means an individual licensed to practice acupuncture by the Texas State Board of Medical Examiners.
- (2) "Advanced practice nurse" means an individual licensed by the Texas Board of Nursing as a registered nurse and recognized by that board as an advanced practice nurse.
- (3) "Audiologist" means an individual licensed to practice audiology by the Texas Department of Licensing and Regulation.
- (4) "Chemical dependency counselor" means an individual licensed by the Texas Commission on Alcohol and Drug Abuse.
- (5) "Chiropractor" means an individual licensed by the Texas Board of Chiropractic Examiners.
- (6) "Dentist" means an individual licensed to practice dentistry by the State Board of Dental Examiners.
- (7) "Dietitian" means an individual licensed by the Texas Department of Licensing and Regulation under Chapter 701, Occupations Code.
- (8) "Hearing instrument fitter and dispenser" means an individual licensed by the Texas Department of Licensing and Regulation under Chapter 402, Occupations Code.
- (9) "Licensed clinical social worker" means an individual licensed as a clinical social worker under Chapter 505, Occupations Code.
- (10) "Licensed professional counselor" means an individual licensed under Chapter 503, Occupations Code.
- (11) "Marriage and family therapist" means an individual licensed under Chapter 502, Occupations Code.

(12) "Occupational therapist" means an individual licensed as an occupational therapist by the Texas Board of Occupational Therapy Examiners.

(13) "Optometrist" means an individual licensed to practice optometry by the Texas Optometry Board.

(13-a) "Pharmacist" means an individual licensed to practice pharmacy by the Texas State Board of Pharmacy.

(14) "Physical therapist" means an individual licensed as a physical therapist by the Texas Board of Physical Therapy Examiners.

(15) "Physician" means an individual licensed to practice medicine by the Texas State Board of Medical Examiners. The term includes a doctor of osteopathic medicine.

(16) "Physician assistant" means an individual licensed by the Texas State Board of Physician Assistant Examiners.

(17) "Podiatrist" means an individual licensed to practice podiatry by the Texas Department of Licensing and Regulation.

(18) "Psychological associate" means an individual licensed as a psychological associate by the Texas Behavioral Health Executive Council.

(19) "Psychologist" means an individual licensed as a psychologist by the Texas Behavioral Health Executive Council.

(20) "Speech-language pathologist" means an individual licensed to practice speech-language pathology by the Texas Department of Licensing and Regulation.

(21) "Surgical assistant" means an individual licensed as a surgical assistant by the Texas State Board of Medical Examiners.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.041(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 71, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 10.002, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 281 (H.B. 1757), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 19.015, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 768 (H.B. 1501), Sec. 3.006, eff. September 1, 2019.

SUBCHAPTER B. DESIGNATION OF PRACTITIONERS UNDER ACCIDENT AND HEALTH INSURANCE POLICY

Sec. 1451.051. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to an accident and health insurance policy, including an individual, blanket, or group policy.

(b) This subchapter applies to an accident and health insurance policy issued by a stipulated premium company subject to Chapter 884.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.052. APPLICABILITY OF GENERAL PROVISIONS OF OTHER LAW. The provisions of Chapter 1201, including provisions relating to the applicability, purpose, and enforcement of that chapter, the construction of policies under that chapter, rulemaking under that chapter, and definitions of terms applicable in that chapter, apply to this subchapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.053. PRACTITIONER DESIGNATION. (a) An accident and health insurance policy may not make a benefit contingent on treatment or examination by one or more particular health care practitioners listed in Section 1451.001 unless the policy contains a provision that designates the practitioners whom the insurer will and will not recognize.

(b) The insurer may include the provision anywhere in the policy or in an endorsement attached to the policy.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.054. TERMS USED TO DESIGNATE HEALTH CARE PRACTITIONERS. A provision of an accident and health insurance policy that designates the health care practitioners whom the insurer will and will not recognize must use the terms defined by Section 1451.001 with the meanings assigned by that section.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

SUBCHAPTER C. SELECTION OF PRACTITIONERS

Sec. 1451.101. DEFINITIONS. In this subchapter:

- (1) "Health insurance policy" means a policy, contract, or agreement described by Section 1451.102.
- (2) "Insured" means an individual who is issued, is a party to, or is a beneficiary under a health insurance policy.
- (3) "Insurer" means an insurer, association, or organization described by Section 1451.102.
- (4) "Nurse first assistant" has the meaning assigned by Section 301.1525, Occupations Code.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.102. APPLICABILITY OF SUBCHAPTER. Except as provided by this subchapter, this subchapter applies only to an individual, group, blanket, or franchise insurance policy, insurance agreement, or group hospital service contract that provides health benefits, accident benefits, or health and accident benefits for medical or surgical expenses incurred as a result of an accident or sickness and that is delivered, issued for delivery, or renewed in this state by any incorporated or unincorporated insurance company, association, or organization, including:

- (1) a fraternal benefit society operating under Chapter 885;
- (2) a general casualty company operating under Chapter 861;
- (3) a life, health, and accident insurance company operating under Chapter 841 or 982;

- (4) a Lloyd's plan operating under Chapter 941;
- (5) a local mutual aid association operating under Chapter 886;
- (6) a mutual insurance company writing insurance other than life insurance operating under Chapter 883;
- (7) a mutual life insurance company operating under Chapter 882;
- (8) a reciprocal exchange operating under Chapter 942;
- (9) a statewide mutual assessment company, mutual assessment company, or mutual assessment life, health, and accident association operating under Chapter 881 or 887; and
- (10) a stipulated premium company operating under Chapter 884.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.103. CONFLICTING PROVISIONS VOID. (a) A provision of a health insurance policy that conflicts with this subchapter is void to the extent of the conflict.

(b) The presence in a health insurance policy of a provision void under Subsection (a) does not affect the validity of other policy provisions.

(c) An insurer shall bring each approved policy form that contains a provision that conflicts with this subchapter into compliance with this subchapter by use of:

- (1) a rider or endorsement approved by the commissioner; or
- (2) a new or revised policy form approved by the commissioner.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.104. NONDISCRIMINATORY PAYMENT OR REIMBURSEMENT; EXCEPTION. (a) An insurer may not classify, differentiate, or discriminate between scheduled services or procedures provided by a health care practitioner selected under this subchapter and performed in the scope of that practitioner's license and the same services or procedures provided by another type of health care practitioner whose services or procedures are covered by a health insurance policy, in

regard to:

- (1) the payment schedule or payment provisions of the policy;
- or
- (2) the amount or manner of payment or reimbursement under the policy.

(b) An insurer may not deny payment or reimbursement for services or procedures in accordance with the policy payment schedule or payment provisions solely because the services or procedures were performed by a health care practitioner selected under this subchapter.

(c) Notwithstanding Subsection (a), a health insurance policy may provide for a different amount of payment or reimbursement for scheduled services or procedures performed by an advanced practice nurse, nurse first assistant, licensed surgical assistant, or physician assistant if the methodology used to compute the amount is the same as the methodology used to compute the amount of payment or reimbursement when the services or procedures are provided by a physician.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.105. SELECTION OF ACUPUNCTURIST. An insured may select an acupuncturist to provide the services or procedures scheduled in the health insurance policy that are within the scope of the acupuncturist's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.106. SELECTION OF ADVANCED PRACTICE NURSE. An insured may select an advanced practice nurse to provide the services scheduled in the health insurance policy that are within the scope of the nurse's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.107. SELECTION OF AUDIOLOGIST. An insured may select an audiologist to measure hearing to determine the presence or extent of the insured's hearing loss or provide aural rehabilitation services to the

insured if the insured has a hearing loss and the services or procedures are scheduled in the health insurance policy.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.108. SELECTION OF CHEMICAL DEPENDENCY COUNSELOR. An insured may select a chemical dependency counselor to provide services or procedures scheduled in the health insurance policy that are within the scope of the counselor's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.109. SELECTION OF CHIROPRACTOR. (a) An insured may select a chiropractor to provide the medical or surgical services or procedures scheduled in the health insurance policy that are within the scope of the chiropractor's license.

(b) If physical modalities and procedures are covered services under a health insurance policy and within the scope of the license of a chiropractor and one or more other type of practitioner, a health insurance policy issuer may not:

(1) deny payment or reimbursement for physical modalities and procedures provided by a chiropractor if:

(A) the chiropractor provides the modalities and procedures in strict compliance with state law; and

(B) the health insurance policy issuer allows payment or reimbursement for the same physical modalities and procedures performed by another type of practitioner that an insured may select under this subchapter;

(2) make payment or reimbursement for particular covered physical modalities and procedures within the scope of a chiropractor's license contingent on treatment or examination by a practitioner that is not a chiropractor; or

(3) establish other limitations on the provision of covered physical modalities and procedures that would prohibit an insured from seeking the covered physical modalities and procedures from a

chiropractor to the same extent that the insured may obtain covered physical modalities and procedures from another type of practitioner.

(c) Nothing in this section requires a health insurance policy issuer to cover particular services or affects the ability of a health insurance policy issuer to determine whether specific procedures for which payment or reimbursement is requested are medically necessary.

(d) This section does not apply to:

- (1) workers' compensation insurance coverage as defined by Section [401.011](#), Labor Code;
- (2) a self-insured employee welfare benefit plan subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.);
- (3) the child health plan program under Chapter [62](#), Health and Safety Code, or the health benefits plan for children under Chapter [63](#), Health and Safety Code; or
- (4) a Medicaid managed care program operated under Chapter [533](#), Government Code, or a Medicaid program operated under Chapter [32](#), Human Resources Code.

(e) A health insurance policy issuer that violates this section is subject to an administrative penalty as provided by Chapter [84](#) of not more than \$1,000 for each claim that remains unpaid in violation of this section. Each day the violation continues constitutes a separate violation.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. [7](#)), Sec. 11.01, eff. September 28, 2011.

Acts 2019, 86th Leg., R.S., Ch. 116 (S.B. [1739](#)), Sec. 3, eff. September 1, 2019.

Sec. 1451.110. SELECTION OF DENTIST. An insured may select a dentist to provide the medical or surgical services or procedures scheduled in the health insurance policy that are within the scope of the dentist's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.111. SELECTION OF DIETITIAN. An insured may select a licensed dietitian or a provisionally licensed dietitian acting under the supervision of a licensed dietitian to provide the services scheduled in the health insurance policy that are within the scope of the dietitian's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.112. SELECTION OF HEARING INSTRUMENT FITTER AND DISPENSER. An insured may select a hearing instrument fitter and dispenser to provide the services or procedures scheduled in the health insurance policy that are within the scope of the license of the fitter and dispenser.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.113. SELECTION OF LICENSED CLINICAL SOCIAL WORKER. An insured may select a licensed clinical social worker to provide the services or procedures scheduled in the health insurance policy that:

(1) are within the scope of the social worker's license, including the provision of direct, diagnostic, preventive, or clinical services to individuals, families, and groups whose functioning is threatened or affected by social or psychological stress or health impairment; and

(2) are specified as services under the terms of the health insurance policy.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.042(a), eff. September 1, 2005.

Sec. 1451.114. SELECTION OF LICENSED PROFESSIONAL COUNSELOR. An

insured may select a licensed professional counselor to provide the services scheduled in the health insurance policy that are within the scope of the counselor's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 221 (S.B. 1291), Sec. 1, eff. September 1, 2009.

Sec. 1451.115. SELECTION OF SURGICAL ASSISTANT. An insured may select a surgical assistant to provide the services or procedures scheduled in the health insurance policy that are within the scope of the assistant's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.116. SELECTION OF MARRIAGE AND FAMILY THERAPIST. An insured may select a marriage and family therapist to provide the services scheduled in the health insurance policy that are within the scope of the therapist's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 221 (S.B. 1291), Sec. 2, eff. September 1, 2009.

Sec. 1451.117. SELECTION OF NURSE FIRST ASSISTANT. An insured may select a nurse first assistant to provide the services scheduled in the health insurance policy that:

- (1) are within the scope of the nurse's license; and
- (2) are requested by the physician whom the nurse is assisting.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.118. SELECTION OF OCCUPATIONAL THERAPIST. An insured may select an occupational therapist to provide the services scheduled in the

health insurance policy that are within the scope of the therapist's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.119. SELECTION OF OPTOMETRIST. An insured may select an optometrist to provide the services or procedures scheduled in the health insurance policy that are within the scope of the optometrist's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.120. SELECTION OF PHYSICAL THERAPIST. An insured may select a physical therapist to provide the services scheduled in the health insurance policy that are within the scope of the therapist's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.121. SELECTION OF PHYSICIAN ASSISTANT. An insured may select a physician assistant to provide the services scheduled in the health insurance policy that are within the scope of the assistant's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.122. SELECTION OF PODIATRIST. An insured may select a podiatrist to provide the medical or surgical services or procedures scheduled in the health insurance policy that are within the scope of the podiatrist's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.123. SELECTION OF PSYCHOLOGICAL ASSOCIATE. An insured may select a psychological associate to provide the services scheduled in the health insurance policy that are within the scope of the associate's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.124. SELECTION OF PSYCHOLOGIST. An insured may select a psychologist to provide the services or procedures scheduled in the health insurance policy that are within the scope of the psychologist's license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.125. SELECTION OF SPEECH-LANGUAGE PATHOLOGIST. An insured may select a speech-language pathologist to evaluate speech or language, provide habilitative or rehabilitative services to restore speech or language loss, or correct a speech or language impairment if the services or procedures are scheduled in the health insurance policy.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.126. REIMBURSEMENT FOR PHYSICAL MODALITIES AND PROCEDURES BY HEALTH INSURER, ADMINISTRATOR, HEALTH MAINTENANCE ORGANIZATION, OR PREFERRED PROVIDER BENEFIT PLAN ISSUER. (a) A health insurer or licensed third-party administrator may not deny reimbursement to a health care practitioner for the provision of covered services of physical modalities and procedures that are within the scope of the practitioner's practice if the services are performed in strict compliance with:

- (1) laws and rules related to that practitioner's license; and
- (2) the terms of the insurance policy or other coverage

agreement.

(b) A health maintenance organization or preferred provider benefit plan issuer may not deny reimbursement to a participating health care practitioner for services provided under a coverage agreement solely because of the type of practitioner providing the services if the services are performed in strict compliance with:

- (1) laws and rules related to that practitioner's license; and
- (2) the terms of the insurance policy or other coverage

agreement.

(c) This section may not be construed to circumvent any contractual provider network agreement between a health insurer or third-party administrator and a licensed health care practitioner.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.1261. REIMBURSEMENT FOR CERTAIN SERVICES AND PROCEDURES PERFORMED BY PHARMACISTS. (a) Notwithstanding any other law, in addition to applying to a policy, agreement, or contract described by Section 1451.102, this section applies to any other individual or group health benefit plan that provides benefits described by Section 1451.102, including:

- (1) a health benefit plan issued by:
 - (A) a group hospital service corporation operating under Chapter 842;
 - (B) a health maintenance organization operating under Chapter 843; or
 - (C) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;
- (2) a small employer health benefit plan subject to Chapter 1501;
- (3) a standard health benefit plan issued under Chapter 1507;
- (4) health benefits provided by or through a church benefits board under Subchapter I, Chapter 22, Business Organizations Code;
- (5) a regional or local health care program operated under Section 75.104, Health and Safety Code; and
- (6) a self-funded health benefit plan sponsored by a professional employer organization under Chapter 91, Labor Code.

(b) This section does not apply to:

- (1) a basic coverage plan under Chapter 1551;
- (2) a basic plan under Chapter 1575;
- (3) a primary care coverage plan under Chapter 1579;
- (4) a plan providing basic coverage under Chapter 1601;
- (5) the state Medicaid program, including the Medicaid managed care program operated under Chapter 533, Government Code; or

(6) the child health plan program under Chapter 62, Health and Safety Code.

(c) Notwithstanding Section 1451.102, this section applies to coverage under a group health benefit plan provided to a resident of this state regardless of whether the group policy, agreement, or contract is delivered, issued for delivery, or renewed in this state.

(d) An insurer or other health benefit plan issuer or a third-party administrator or pharmacy benefit manager of a health benefit plan may not deny reimbursement to a pharmacist for the provision of a service or procedure within the scope of the pharmacist's license to practice pharmacy under Subtitle J, Title 3, Occupations Code, that:

(1) would be covered by the insurance policy or other coverage agreement if the service or procedure were provided by:

- (A) a physician;
- (B) an advanced practice nurse; or
- (C) a physician assistant; and

(2) is performed by the pharmacist in strict compliance with laws and rules related to:

- (A) the provision of the service or procedure; and
- (B) the pharmacist's license.

(e) This section may not be construed to require an insurer or other health benefit plan issuer or a third-party administrator or pharmacy benefit manager to reimburse a pharmacist or pharmacy as an in-network or preferred provider.

Added by Acts 2019, 86th Leg., R.S., Ch. 324 (H.B. [3441](#)), Sec. 1, eff. September 1, 2019.

Sec. 1451.127. DUTY OF PERSON ARRANGING PROVIDER CONTRACTS FOR HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION. (a) A person who arranges contracts with providers on behalf of a health maintenance organization or health insurer shall comply with laws related to the duties of the organization or insurer to notify and consider providers for those contracts.

(b) A violation of this section:

(1) is an unlawful practice under Section 15.05, Business & Commerce Code; and

(2) constitutes restraint of trade.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 3, eff. April 1, 2005.

Sec. 1451.128. SELECTION OF PHARMACIST. An insured may select a pharmacist to provide the services scheduled in the health insurance policy that are within the scope of the pharmacist's license to practice pharmacy under Subtitle J, Title 3, Occupations Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 281 (H.B. 1757), Sec. 2, eff. September 1, 2019.