



**Texas Association of Health Plans**  
1001 Congress Ave., Suite 300  
Austin, Texas 78701  
P: 512.476.2091  
www.tahp.org

April 9, 2025

**Re: Opposition to HB 3812 & Suggested Changes**

Dear Chairman Dean and Members of the House Insurance Committee,

The Texas Association of Health Plans (TAHP) is the statewide organization representing health insurers, HMOs, Medicaid managed care organizations, and related entities providing coverage for more than 20 million Texans. TAHP opposes House Bill 3812 because, although it tries to reduce administrative burdens on physicians by expanding “gold carding,” the rest of the bill fundamentally undermines prior authorization (PA) by making utilization review the “practice of medicine,” handing oversight to the Texas Medical Board (TMB), and banning the administrative licenses health plan doctors rely on. If these changes are enacted, health plans will be forced to end or severely limit PAs—exposing Texans to more unsafe, unnecessary, or fraudulent care and potentially driving up premiums for employers and families.

**A Shared Commitment: Faster, Smarter, Necessary PAs**

Health plans recognize that PAs can be time-consuming for physicians and patients alike. We remain fully committed to streamlining the process so it’s faster and less burdensome. But we must also remember that PAs protect against fraud, waste, and abuse—and help prevent unsafe or inappropriate care. Estimates show that up to 25% of tests and 11% of procedures may be unnecessary, and many patients receive treatments without proper consideration of cheaper, equally effective alternatives or potential drug interactions.

**Texas already leads the nation in rigorous PA requirements:**

- Standard PAs in three calendar days (versus the federal standard of 14 days).
- Strong and fast appeal rights, including the option to escalate to independent physician review.
- A physician-led approach ensures that patients receive safe, evidence-based care.

Even with these strongest-in-the-nation safeguards, we do not oppose HB 3812’s expansion of “gold carding,” which rewards doctors who consistently demonstrate high-quality, appropriate



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care. However, the bill goes far beyond that, dismantling the foundation of PAs and threatening access to safe, cost-effective coverage.

### **How HB 3812 Undermines Prior Authorization**

Although HB 3812 aims to cut red tape by expanding “gold carding,” it simultaneously hands full control of prior authorization (PA) oversight to the Texas Medical Board (TMB), declares utilization review (UR) to be practicing medicine, and bans the administrative licenses that many plan medical directors hold. This trio of changes effectively dismantles the structure that ensures PAs run smoothly and protects employers and families from unsafe or wasteful health care.

### **Oversight by the TMB Creates a Conflict of Interest**

HB 3812 places insurance oversight with the Texas Medical Board (TMB) rather than the Texas Department of Insurance (TDI). TDI is designed to regulate health plans’ coverage processes and enforce consumer protections, including prior authorization (PA) timelines and appeals. TMB’s core role is entirely different—licensing and disciplining physicians. Granting TMB the power to investigate or sanction health plan medical directors for coverage decisions invites conflicts of interest:

- **Retaliation and Bias:** TMB has faced complaints of retaliatory investigations against doctors. Allowing TMB to also investigate insurers—which many doctors see as adversaries—opens the door for similar bias or punitive actions. This is akin to having a professional trade board for roofers also police property and casualty insurers over coverage determinations.
- **Mismatch in Expertise:** TMB deals with physician misconduct and deviations from the standard of care. It has no track record regulating benefits, claim appeals, or cost-sharing structures. Giving it authority over health plans blurs the line between “who sets coverage rules” and “who enforces medical licensure,” weakening oversight meant to protect patients from unfair denials or delays.

### **Redefining the Practice of Medicine Forces Insurers to Play Doctor**

Plan medical directors never physically examine patients; they rely on published guidelines and data to ensure that requests—particularly high-risk or high-cost procedures—are clinically sound. Treating that desk review as “the practice of medicine” thrusts these doctors into possible



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malpractice liability, even though they lack the patient relationship required for truly informed care. It also would require insurers to violate the state's corporate practice of medicine rules, essentially banning insurers from employing their own in-house physicians to check for fraud, duplicative care, or harmful treatments.

Utilization review directors do not see or diagnose patients. They establish utilization review requirements and processes using TDI-approved, evidence-based guidelines to ensure safe, necessary care. Labeling that process "the practice of medicine" is unworkable for several reasons:

- **Second Opinions on Every Request:** If directing UR is "practicing medicine," plan doctors might be expected to physically examine patients, order tests, and provide follow-up care. That's impossible for a medical director to do for the millions of UR requests that come in—yet failure to do so could expose them to malpractice suits.
- **Corporate Practice of Medicine Violations:** Texas prohibits corporations (like insurers) from employing doctors for direct patient care. UR simply checks coverage eligibility. Once it's "medicine," insurers risk violating corporate practice of medicine laws, forcing them to divest medical directors or end PAs altogether.

### **Removing Administrative Licenses**

For 20 years, Texas law has recognized administrative medical licenses for physicians who focus on evidence-based oversight rather than maintaining an active patient caseload. These doctors stay up to date on the latest medical science to ensure PAs remain fair, safe, and timely. HB 3812 would ban administrative licenses, forcing medical directors to hold a fully "practicing" license. Many will not—and cannot—meet that requirement if they haven't treated patients continuously.

### **The Real-World Impact: No PAs—and Higher Costs**

If HB 3812 passes, few doctors will be willing to serve as plan medical directors, knowing they could face malpractice suits or lose their licenses to a board that has a long track record of inappropriately retaliating against doctors. Plans simply cannot perform PAs without enough physician reviewers—eliminating one of the most critical tools for preventing unsafe, unnecessary, or fraudulent health care. Research suggests that losing effective utilization review can add double-digit percentage increases to premiums, as employers and families absorb the costs of unchecked overtreatment.



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While expanding “gold carding” could reduce hassles for proven, evidence-based physicians, the larger changes in HB 3812 would erode vital checks and balances in Texas’ health system. The end result is more expensive coverage for families and employers, with fewer protections against unproven or harmful care.

Sincerely,

A handwritten signature in black ink that reads "Jamie Dudensing". The script is fluid and cursive, with a prominent dot above the "i" in "Dudensing".

Jamie Dudensing, RN

CEO

Texas Association of Health Plans