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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/16/2007

SPONSOR Rehm LAST UPDATED 2/21/2007 HB 1218

SHORT TITLE Insurance Adjusters in Medical Practice Act SB \_\_\_\_\_

ANALYST Moser

### APPROPRIATION (dollars in thousands)

| Appropriation |      | Recurring<br>or Non-Rec | Fund<br>Affected |
|---------------|------|-------------------------|------------------|
| FY07          | FY08 |                         |                  |
| NFI           | NFI  |                         |                  |
|               |      |                         |                  |

Duplicate to: SB 807

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

NM Board of Medical Examiners  
 Department of Regulation and Licensing (DRL)  
 General Services Department (GSD)

### SUMMARY

#### Synopsis of Bill

House Bill 1218 proposes to exempt all insurance adjusters who handle, interpret or adjust an insurance claim from the Medical Practice Act.

### FISCAL IMPLICATIONS

According to the Risk Management Division of GSD "...the fiscal implication is difficult to predict. This bill could serve to increase the cost of the processing of any medical related claim. This could be all claims against the state with the exception of property claims. The increase in cost would be from the necessity of obtaining an expert medical opinion on each claim for each decision. This would be burdensome, time consuming and costly."

### SIGNIFICANT ISSUES

The Medical Practice Act defines the practice of medicine to include, in part, "offering medical peer review, utilization review or diagnostic service of any kind that directly influences patient

care.” Any review of an insurance claim that involves on-going patient care falls within this definition, because approval or denial of a claim may directly influence the care, treatment, or medication the patient may receive.

Health insurance companies in New Mexico comply with this section of the Medical Practice Act by having a physician with a current NM medical license on staff who is responsible for the review of claims and for the determinations made by insurance claims adjusters.

The Medical Board points out that the New Mexico workers compensation system is the only insurance entity that does not currently comply with this requirement of the Medical Practice Act. Determinations made by claims representatives and adjusters for workers compensation are not reviewed or approved by a licensed NM physician.

SB 807 proposes to exempt all insurance claims adjusters from the Medical Practice Act, meaning that insurance companies that currently have licensed medical doctors providing oversight for the claims system would no longer need them. This would allow claims adjusters for insurance companies, as well as for the workers compensation system, to be free to make medical decisions regarding the care and treatment of patients without the oversight of a physician.

GSD expresses great concern that if the Medical Practices Act is interpreted to apply to insurance adjusters of medical claims who are NOT licensed by the Insurance Code, Risk Management Division (RMD) adjusters who settle medical claims could be accused of practicing medicine without a license.

The NM Medical Board indicates that it receives frequent complaints from consumers unhappy with their workers compensation experience –complaining about the limited care provided, and about their inability to obtain health care they feel may be necessary. The Medical Board cites that it has also received complaints from physicians treating patients within the workers compensation context. These physician complaints focus on claims adjusters who will not authorize the treatments the physician feels their patients need, and that when they attempt to intercede on behalf of the patient’s they are removed from the case. These physicians argue as does the medical board that by making these sorts of decisions, the claims adjusters are practicing medicine without a license.

## **OTHER SUBSTANTIVE ISSUES**

The bill may require Risk Management Division adjusters who settle medical claims, liability and workers compensation claims to be adjusters licensed under the Insurance Code or risk being charged with practicing medicine without a license. It would appear that a restriction would be made for the decision making ability of medical related claims being processed by adjusters.

There is no provision in HB 1218 requiring that insurance adjusters have any sort of medical training. This concerns the medical board which points out that all of the other current exemptions to the Medical Practice Act (except for religious and domestic situations) involve individuals who are medically trained personnel of some sort, working under the supervision of a licensed physician. The exception proposed by HB1218 would be the first to involve medical decisions made by individuals without medical training, working without physician supervision.

**AMENDMENTS**

GSD recommends the bill be amended to include, in addition to licensed adjusters, employees and contractors of the Risk Management Division dealing with medical claims.

GM/csd