



House Insurance Committee
Testimony by Douglas D. Jeffrey, MD
House Bill 1236 by Rep. Tom Oliverson
March 21, 2023

Thank you, Mr. Chairman, Vice Chair Johnson, and committee members for allowing me to testify today. My name is Dr. Doug Jeffrey, and I am a physician specializing in emergency medicine in here in Austin. I am testifying **for** House Bill 1236 on behalf of the Texas College of Emergency Physicians as well as the Texas Medical Association and its more than 57,000 members across the state.

As this committee knows, Texas has a "prudent layperson" standard covering patients' emergency care. This becomes effective when a patient – a prudent layperson – has a sudden, severe medical condition requiring him or her to believe the condition or injury is urgent enough that failing to get immediate care could lead to serious health consequences. In that event, health plans must provide coverage for the patient's care by the emergency department or facility medical staff to evaluate and stabilize him or her.

The purpose of the prudent layperson standard is to shield patients from having to make self-diagnoses, and to encourage them to seek emergency care appropriately without having to have medical expertise or a detailed understanding of the law.

HB 1236 builds upon existing Texas law, which already requires health plans to focus on a patient's presenting symptoms, by making that requirement even more explicit. This language is important because it prevents health plans from penalizing a patient who was acting reasonably (from a layperson standpoint) at the time he or she sought care, regardless of the physician's ultimate diagnosis of the underlying condition.

Patients should not be asked to act as highly trained diagnosticians. These are skills our physician members have spent many years of their lives acquiring. Nor should they be asked to diagnose their symptoms at a critical and emotional moment when time could be of the essence. The prudent layperson standard, including HB 1236's clarifying amendment, protects Texans – our patients – both in terms of their health and their finances.

The prudent layperson standard has been in state and federal law for many years. However, in recent years we have seen health plans put forth more policies that include retroactive reviews of a patient's decision to seek emergency care. This trend concerns us. For example, if the final diagnosis of the condition of chest pain is heartburn rather than a heart attack, we worry a health plan may attempt to deny coverage of the claim, even though the patient acted as any prudent

layperson would at the time, based upon his or her symptoms.

When a patient acts as a prudent layperson when deciding to go to the emergency department, the patient should not have to be concerned that a health plan will not cover the care. And no patient should be deterred from seeking potentially life-saving care due to concerns about health plan coverage or a retroactive denial.

HB 1236 protects patient health by clarifying that the final diagnosis of the condition is not a relevant factor in applying the prudent layperson standard.

I thank the committee for working to further protect Texas' patients. I am happy to answer any questions.