

04.26.25 POLICY PROPOSAL 2

Title: Determination of medical necessity is the practice of medicine

Full Name*

Marion R. McMillan MD

Designation*

Physician

Are you submitting on behalf of a county medical society, specialty society, or other member?

No

If YES, please indicate the name of the county medical society, specialty society, or other member(s) for which you represent.

(If NO, you may skip.)

Submission / Idea*

Elimination of medical necessity determinations without accountability by health insurance companies; request to reject and repeal SC 38-59-25

Evidence / Support for Proposal*

I request that the SC legislature repeal or amend Title 38, SC 38-59-25, enacted June 25, 2008. This law gave health insurance companies the right to make medical necessity decisions, without accountability, in the normal course of approving or rejecting requests for medical services prescribed by licensed South Carolina physicians.

Requested Action: What action is required to achieve this idea?

*(i.e. Enact legislation, have a state agency review an issue, enact an SCMA policy statement on a topic, or other action?)**

Amend or repeal or amend 38-59-25 to re-establish that medical necessity decisions ARE the practice of medicine subject to control and regulation by the Board of Medical Examiners under the Medical Practice Act. Further request that unless and until it is repealed, health insurance companies making medical necessity decisions be held to the same accountability standard(s) faced by licensed physicians for the decisions we make. As the practice of medicine, these companies would face potential sanction by the Board of Medical Examiners, and be subject to lawsuit by patients, families, and physicians affected directly or indirectly by the decisions they make.

Why is the Requested Action important?*

Patients and physicians have suffered and continue to suffer the adverse consequences of medical necessity decisions made by health insurance companies, with total lack of accountability to those affected directly or indirectly by these decisions.

If there are additional details not addressed above that you would like to share, please provide them here.

(If you feel that the above information is sufficient, you may skip.)