



Physicians Caring for Texans

**Protecting the Prudent Layperson Standard  
House Insurance Committee  
House Bill 2035 by Rep. Julie Johnson  
Physician Testimony by Diana Fite, MD**

Thank you, Mr. Chairman and committee members, for allowing me to testify today. My name is Dr. Diana Fite, and I am a physician from Houston specializing in emergency medicine. I am also president of the Texas Medical Association and am testifying on behalf of the association and its more than 55,000 physician and medical student members **in support of** House Bill 2035.

As this committee knows, the “prudent layperson” standard requires health plans to provide coverage for health care services provided in an emergency department or facility to evaluate and stabilize medical conditions of a recent onset and severity that would lead a prudent layperson to believe the condition or injury is of such a nature that failure to get immediate care could have serious health consequences.

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 2035 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 prudent layperson standpoint) at the time he or she sought care, regardless of the physician’s final diagnosis of the underlying condition.

Patients should not be asked to act as highly trained diagnosticians, skills our members have spent many years 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 2035’s clarifying amendment, protects Texans (our patients and your constituents) in terms of both their health and their finances.

The prudent layperson standard has been in state and federal law for many years. In recent years, however, we have seen health plans put forth more policies that include retroactive reviews of a patient’s decision to seek emergency care.

We are concerned that for example, if the final diagnosis of the condition of chest pain is heartburn rather than a heart attack, a health plan may attempt to deny coverage of the claim,

even though the patient acted as a prudent layperson would have at the time, based upon his or her symptoms.

When a patient acts as a prudent layperson by 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 retroactive denials.

HB 2035 protects patient health by further clarifying that the final diagnosis of the condition is not a relevant factor in applying the prudent layperson standard.

The aforementioned, coupled with HB 2035's provisions specifying that utilization reviews of emergency care claims must be conducted by a Texas-licensed physician who is board certified in emergency medicine, are helpful in ensuring patients are not wrongfully denied coverage.

Furthermore, the added enforcement components of the bill regarding unfair methods of competition will be very helpful in creating health plan accountability for the products they are selling to Texas patients. Emergency care coverage is one of the main reasons Texas patients purchase health insurance. It is important that insurers act appropriately in approving or denying emergency care claims and in applying the prudent layperson standard so that patients receive value for their premium dollars.

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