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IN ASSEMBLY

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Introduced by M. of A. PAULIN, LEVENBERG -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to providing insurance coverage for non-pharmacological treatments and non-opioid drugs for chronic pain

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 42 to read as follows:

(42) (A) Every policy that provides medical, major medical, or similar comprehensive-type coverage that provides coverage for pain shall provide outpatient coverage for a minimum of three non-pharmacological treatments of chronic pain, and a minimum of two non-opioid drugs approved by the United States Food and Drug Administration (FDA) for the treatment of acute or chronic pain. Such non-pharmacological non-opioid treatments shall include at least one of each of the following treatment types: (i) restorative treatments such as massage therapy; (ii) behavioral treatments such as cognitive behavioral therapy; and (iii) complementary treatments such as acupuncture. Access to non-pharmacological treatments and non-opioid drugs shall be comparable to that of other covered services. Coverage shall be comparable for services provided by licensed professionals.

(B) Coverage under this subsection shall not apply financial requirements or treatment limitations to non-opioid treatment of chronic pain that are more restrictive than either of the following: the predominant financial requirements and treatment limitations applied to substantially all medical benefits covered by the contract; and the financial

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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requirements and treatment limitations applied to any opioid-based treatment of chronic pain. Coverage under this paragraph shall not disadvantage or discourage any non-opioid drug approved by the United States Food and Drug Administration (FDA) for the treatment of chronic or acute pain relative to any opioid drug for the treatment of chronic or acute pain, where impermissible disadvantaging or discouragement includes, without limitation: designating any such non-opioid drug as a non-preferred drug if any opioid or narcotic drug is designated as a preferred drug; or establishing more restrictive or more extensive utilization controls including, but not limited to, more restrictive or more extensive financial requirements, prior authorization, or step therapy requirements, for such non-opioid drug than the least restrictive or extensive utilization controls applicable to any such opioid or narcotic drug.

(C) For the purposes of this paragraph the following terms shall have the following meanings:

(i) "financial requirement" means deductible, co-payments, co-insurance and out-of-pocket expenses;

(ii) "predominant" means that a financial requirement or treatment limitation is the most common or frequent of such type of limit or requirement;

(iii) "treatment limitation" means limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment and includes non-quantitative treatment limitations such as: medical management standards limiting or excluding benefits based on medical necessity, or based on whether the treatment is experimental or investigational; standards for provider admission to participate in a network, including reimbursement rates; methods for determining usual, customary and reasonable charges; exclusions based on failure to complete a course of treatment; and restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the contract;

(iv) "chronic pain" means pain that persists or recurs for more than three months; and

(v) "acute pain" means pain whether resulting from disease, accidental or intentional trauma, or other causes that is reasonably expected to last only a short period of time.

§ 2. Subsection (l) of section 3221 of the insurance law is amended by adding a new paragraph 24 to read as follows:

(24) (A) Every insurer delivering a group or blanket policy or issuing a group or blanket policy for delivery in this state that provides coverage for pain shall provide outpatient coverage for a minimum of three non-pharmacological treatments of chronic pain, and a minimum of two non-opioid drugs approved by the United States Food and Drug Administration (FDA) for the treatment of chronic or acute pain. Such non-pharmacological non-opioid treatments shall include at least one of each of the following treatment types: (i) restorative treatments such as massage therapy; (ii) behavioral treatments such as cognitive behavioral therapy; and (iii) complementary treatments such as acupuncture. Access to non-pharmacological treatments and non-opioid drugs for the treatment of acute or chronic pain shall be comparable to that of other covered services. Coverage shall be comparable for services provided by licensed professionals.

(B) Coverage under this subsection shall not apply financial requirements or treatment limitations to non-opioid treatment of chronic pain

that are more restrictive than either of the following: the predominant financial requirements and treatment limitations applied to substantially all medical benefits covered by the contract; and the financial requirements and treatment limitations applied to any opioid-based treatment of chronic pain. Coverage under this paragraph shall not disadvantage or discourage any non-opioid drug approved by the United States Food and Drug Administration (FDA) for the treatment of chronic or acute pain relative to any opioid drug for the treatment of chronic or acute pain, where impermissible disadvantaging or discouragement includes, without limitation: designating any such non-opioid drug as a non-preferred drug if any opioid or narcotic drug is designated as a preferred drug; or establishing more restrictive or more extensive utilization controls including, but not limited to, more restrictive or more extensive financial requirements, prior authorization, or step therapy requirements, for such non-opioid drug than the least restrictive or extensive utilization controls applicable to any such opioid or narcotic drug.

(C) For the purposes of this paragraph the following terms shall have the following meanings:

(i) "financial requirement" means deductible, co-payments, co-insurance and out-of-pocket expenses;

(ii) "predominant" means that a financial requirement or treatment limitation is the most common or frequent of such type of limit or requirement;

(iii) "treatment limitation" means limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment and includes non-quantitative treatment limitations such as: medical management standards limiting or excluding benefits based on medical necessity, or based on whether the treatment is experimental or investigational; standards for provider admission to participate in a network, including reimbursement rates; methods for determining usual, customary and reasonable charges; exclusions based on failure to complete a course of treatment; and restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the contract;

(iv) "chronic pain" means pain that persists or recurs for more than three months; and

(v) "acute pain" means pain whether resulting from disease, accidental or intentional trauma, or other causes that is reasonably expected to last only a short period of time.

§ 3. Section 4303 of the insurance law is amended by adding a new subsection (xx) to read as follows:

(xx) (1) Every contract issued by a hospital service corporation, health service corporation or medical expense indemnity corporation that includes coverage for pain shall provide outpatient coverage for a minimum of three non-pharmacological treatments of chronic pain, and a minimum of two non-opioid drugs approved by the United States Food and Drug Administration (FDA) for the treatment of acute or chronic pain. Such non-pharmacological non-opioid treatments shall include at least one of each of the following treatment types: (A) restorative treatments such as massage therapy; (B) behavioral treatments such as cognitive behavioral therapy; and (C) complementary treatments such as acupuncture. Access to non-pharmacological treatments and non-opioid drugs for the treatment of acute or chronic pain shall be comparable to that of other

covered services. Coverage shall be comparable for services provided by licensed professionals.

(2) Coverage under this subsection shall not apply financial requirements or treatment limitations to non-opioid treatment of chronic pain that are more restrictive than either of the following: the predominant financial requirements and treatment limitations applied to substantially all medical benefits covered by the contract; and the financial requirements and treatment limitations applied to any opioid-based treatment of chronic pain. Coverage under this subsection shall not disadvantage or discourage any non-opioid drug approved by the United States Food and Drug Administration (FDA) for the treatment of chronic or acute pain relative to any opioid drug for the treatment of chronic or acute pain, where impermissible disadvantaging or discouragement includes, without limitation: designating any such non-opioid drug as a non-preferred drug if any opioid or narcotic drug is designated as a preferred drug; or establishing more restrictive or more extensive utilization controls including, but not limited to, more restrictive or more extensive financial requirements, prior authorization, or step therapy requirements, for such non-opioid drug than the least restrictive or extensive utilization controls applicable to any such opioid or narcotic drug.

(3) For the purposes of this subsection the following terms shall have the following meanings:

(A) "financial requirement" means deductible, co-payments, co-insurance and out-of-pocket expenses;

(B) "predominant" means that a financial requirement or treatment limitation is the most common or frequent of such type of limit or requirement;

(C) "treatment limitation" means limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment and includes non-quantitative treatment limitations such as: medical management standards limiting or excluding benefits based on medical necessity, or based on whether the treatment is experimental or investigational; standards for provider admission to participate in a network, including reimbursement rates; methods for determining usual, customary and reasonable charges; exclusions based on failure to complete a course of treatment; and restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the contract;

(D) "chronic pain" means pain that persists or recurs for more than three months; and

(E) "acute pain" means pain whether resulting from disease, accidental or intentional trauma, or other causes that is reasonably expected to last only a short period of time.

§ 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to all policies and contracts issued, renewed, modified, altered, or amended on or after such date.