

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GOTTFRIED, JOHN, DINOWITZ, GALEF, KAVANAGH,
PAULIN, SCHIMEL, FIELDS -- Multi-Sponsored by -- M. of A. JACOBS,
KELLNER, J. MILLER, TOWNS -- read once and referred to the Committee
on Health

AN ACT to amend the public health law and the insurance law, in relation
to the definition of clinical peer reviewer

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 2 of section 4900 of the public health law, as
2 amended by chapter 586 of the laws of 1998, is amended to read as
3 follows:
4 2. "Clinical peer reviewer" means:
5 (a) [for purposes of title one of this article:
6 (i) a physician who possesses a current and valid non-restricted
7 license to practice medicine; or
8 (ii) a health care professional other than a licensed physician who:
9 (A) where applicable, possesses a current and valid non-restricted
10 license, certificate or registration or, where no provision for a
11 license, certificate or registration exists, is credentialed by the
12 national accrediting body appropriate to the profession; and
13 (B) is in the same profession and same or similar specialty as the
14 health care provider who typically manages the medical condition or
15 disease or provides the health care service or treatment under review;
16 and
17 (b) for purposes of title two of this article:
18 (i)] a physician who:
19 [(A)] (I) possesses a current and valid non-restricted license to
20 practice medicine;
21 [(B)] (II) where applicable, is board certified or board eligible in
22 the same or similar specialty as the health care provider who typically

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

1 manages the medical condition or disease or provides the health care
2 service or treatment under REVIEW OR appeal;

3 [(C)] (III) has been practicing in such area of specialty for a period
4 of at least five years; and

5 [(D)] (IV) is knowledgeable about the health care service or treatment
6 under REVIEW OR appeal; or

7 [(ii)] (B) a health care professional other than a licensed physician
8 who:

9 [(A)] (I) where applicable, possesses a current and valid non-res-
10 tricted license, certificate or registration;

11 [(B)] (II) where applicable, is credentialed by the national accredit-
12 ing body appropriate to the profession in the same profession and same
13 or similar specialty as the health care provider who typically manages
14 the medical condition or disease or provides the health care service or
15 treatment under REVIEW OR appeal;

16 [(C)] (III) has been practicing in such area of specialty for a period
17 of at least five years;

18 [(D)] (IV) is knowledgeable about the health care service or treatment
19 under REVIEW OR appeal; and

20 [(E)] (V) where applicable to such health care professional's scope of
21 practice, is clinically supported by a physician who possesses a current
22 and valid non-restricted license to practice medicine.

23 [(c)] Nothing [herein] IN THIS SUBDIVISION shall be construed to
24 change any statutorily-defined scope of practice.

25 S 2. Subsection (b) of section 4900 of the insurance law, as amended
26 by chapter 586 of the laws of 1998, is amended to read as follows:

27 (b) "Clinical peer reviewer" means:

28 (1) [for purposes of title one of this article:

29 (A) a physician who possesses a current and valid non-restricted
30 license to practice medicine; or

31 (B) a health care professional other than a licensed physician who:

32 (i) where applicable, possesses a current and valid non-restricted
33 license, certificate or registration or, where no provision for a
34 license, certificate or registration exists, is credentialed by the
35 national accrediting body appropriate to the profession; and

36 (ii) is in the same profession and same or similar specialty as the
37 health care provider who typically manages the medical condition or
38 disease or provides the health care service or treatment under review;
39 and

40 (2) for purposes of title two of this article:

41 (A) a physician who:

42 [(i)] (A) possesses a current and valid non-restricted license to
43 practice medicine;

44 [(ii)] (B) where applicable, is board certified or board eligible in
45 the same or similar specialty as the health care provider who typically
46 manages the medical condition or disease or provides the health care
47 service or treatment under REVIEW OR appeal;

48 [(iii)] (C) has been practicing in such area of specialty for a period
49 of at least five years; and

50 [(iv)] (D) is knowledgeable about the health care service or treatment
51 under REVIEW OR appeal; or

52 [(B)] (2) a health care professional other than a licensed physician
53 who:

54 [(i)] (A) where applicable, possesses a current and valid non-res-
55 tricted license, certificate or registration;

1 [(ii)] (B) where applicable, is credentialed by the national accredit-
2 ing body appropriate to the profession in the same profession and same
3 or similar specialty as the health care provider who typically manages
4 the medical condition or disease or provides the health care service or
5 treatment under REVIEW OR appeal;
6 [(iii)] (C) has been practicing in such area of specialty for a period
7 of at least five years;
8 [(iv)] (D) is knowledgeable about the health care service or treatment
9 under REVIEW OR appeal; and
10 [(v)] (E) where applicable to such health care professional's scope of
11 practice, is clinically supported by a physician who possesses a current
12 and valid non-restricted license to practice medicine.
13 [(3)] Nothing [herein] IN THIS SUBSECTION shall be construed to change
14 any statutorily-defined scope of practice.
15 S 3. This act shall take effect on the ninetieth day after it shall
16 have become a law.