S T A T E O F N E W Y O R K

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I N A S S E M B L Y

April 14, 2010

Introduced by M. of A. BARRA -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to allowing reimbursements for certain services provided by licensed mental health counselors

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

Section 1. Paragraph 4 of subsection (i) of section 3216 of the insurance law is amended to read as follows:

(4) If a policy provides for reimbursement for psychiatric or psychological services or for diagnosis and treatment of mental, nervous, or emotional disorders or ailments, however defined in the policy, the insured shall be entitled to reimbursement for such services, diagnosis or treatment whether performed by a physician, psychiatrist [or], a certified and registered psychologist, OR A LICENSED MENTAL HEALTH COUNSELOR when the services rendered are within the lawful scope of their practice.

S 2. Paragraph 4 of subsection (l) of section 3221 of the insurance law, subparagraphs (A) and (D) as amended by chapter 230 of the laws of 2004 and subparagraph (B) as amended by chapter 420 of the laws of 2002, is amended to read as follows:

(4) (A) Every insurer delivering a group policy or issuing a group policy for delivery, in this state, which provides reimbursement for psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in such policy, by physicians, psychiatrists or psychologists, must make available and if requested by the policyholder provide the same coverage to insureds for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to article one hundred fifty-four of the education law OR A LICENSED MENTAL HEALTH COUNSELOR, WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS LICENSED PURSUANT TO ARTICLE ONE HUNDRED SIXTY-THREE OF THE EDUCATION LAW. Written notice of the availability of such coverage shall be delivered to the policyholder prior to inception

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

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of such group policy and annually thereafter, except that this notice shall not be required where a policy covers two hundred or more employees or where the benefit structure was the subject of collective bargaining affecting persons who are employed in more than one state.

(B) The state board for social work shall maintain a list of all licensed clinical social workers qualified for reimbursement under this paragraph. THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL LICENSED MENTAL HEALTH COUNSELORS QUALIFIED FOR REIMBURSEMENT UNDER THIS PARAGRAPH.

(C) Such coverage shall be made available at the inception of all new policies and, with respect to all other policies at any subsequent annual anniversary date of the policy subject to evidence of insurability.

(D) In addition to the requirements of subparagraph (A) of this paragraph, every insurer issuing a group policy for delivery in this state which policy provides reimbursement to insureds for psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in such policy, by physicians, psychiatrists or psychologists, must provide the same coverage to insureds for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to subdivision two of section seven thousand seven hundred four of the education law OR A LICENSED MENTAL HEALTH COUNSELOR, WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS LICENSED PURSUANT TO SUBDIVISION THREE OF SECTION EIGHT THOUSAND FOUR HUNDRED TWO OF THE EDUCATION LAW and in addition shall have either (i) three or more additional years experience in psychotherapy, which for the purposes of this subparagraph shall mean the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially or emotionally maladaptive, under supervision, satisfactory to the state board for social work OR THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS, in a facility, licensed or incorporated by an appropriate governmental department, providing services for diagnosis or treatment of mental, nervous or emotional disorders or ailments, or (ii) three or more additional years experience in psychotherapy under the supervision, satisfactory to the state board for social work OR THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS, of a psychiatrist, a licensed and registered psychologist [or], a licensed clinical social worker OR A LICENSED MENTAL HEALTH COUNSELOR qualified for reimbursement pursuant to subsection (h) of this section, or (iii) a combination of the experience specified in items (i) and (ii) OF THIS SUBPARAGRAPH totaling three years, satisfactory to the state board for social work OR THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS. The state board for social work shall maintain a list of all licensed clinical social workers qualified for reimbursement under this subparagraph. THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL LICENSED MENTAL HEALTH COUNSELORS QUALIFIED FOR REIMBURSEMENT UNDER THIS SUBPARAGRAPH.

S 3. Item (ii) of subparagraph (A) of paragraph 5 of subsection (l) of section 3221 of the insurance law, as amended by chapter 502 of the laws of 2007, is amended to read as follows:

(ii) where the policy provides coverage for physician services, it shall include benefits for outpatient care provided by a psychiatrist or psychologist licensed to practice in this state, a licensed clinical social worker OR A LICENSED MENTAL HEALTH COUNSELOR who meets the requirements of subparagraph (D) of paragraph four of this subsection, or a professional corporation or university faculty practice corporation

thereof. Such benefits may be limited to not less than twenty visits in any contract year, plan year, or calendar year.

S 4. Subparagraph (G) of paragraph 4 of subsection (f) of section 4235 of the insurance law, as relettered by chapter 456 of the laws of 1993, is amended to read as follows:

(G) psychiatric or psychological services or for the diagnosis and treatment of mental, nervous, or emotional disorders or ailments, however defined in such policy, a subscriber to such policy shall be entitled to reimbursement for such psychiatric or psychological services or diagnosis or treatment whether performed by a physician, psychiatrist [or], a certified and registered psychologist OR A LICENSED MENTAL HEALTH COUNSELOR when the services rendered are within the lawful scope of their practice, and when such policy or any certificate issued thereunder is delivered or issued for delivery without this state by an authorized insurer, covered persons residing in this state shall be entitled to reimbursement for such diagnosis and treatment by a physician, psychiatrist or a certified and registered psychologist as hereinabove provided; and

S 5. Paragraph 1 of subsection (h) and subsections (i) and (n) of section 4303 of the insurance law, paragraph 1 of subsection (h) as amended by chapter 502 of the laws of 2007 and subsections (i) and (n) as amended by chapter 230 of the laws of 2004, are amended to read as follows:

(1) A medical expense indemnity corporation or a health service corporation, which provides group, group remittance or school blanket coverage for physician services, shall provide as part of its contract broad-based coverage for the diagnosis and treatment of mental, nervous or emotional disorders or ailments, however defined in such contract, at least equal to the coverage provided for other health conditions and shall include: benefits for outpatient care provided by a psychiatrist or psychologist licensed to practice in this state, a licensed clinical social worker OR A LICENSED MENTAL HEALTH COUNSELOR who meets the requirements of subsection (n) of this section, or a professional corporation or university faculty practice corporation thereof, which benefits may be limited to not less than twenty visits in any contract year, plan year or calendar year. Such coverage may be provided on a contract year, plan year or calendar year basis and shall be consistent with the provision of other benefits under the contract. Such coverage may be subject to annual deductibles, co-pays and coinsurance as may be deemed appropriate by the superintendent and shall be consistent with those imposed on other benefits under the contract. In the event the group remittance group or contract holder is provided coverage provided under this paragraph and under subparagraph (B) of paragraph one of subsection (g) of this section from the same health service corporation, or under a contract which is jointly underwritten by two health service corporations or by a health service corporation and a medical expense indemnity corporation, the aggregate of the benefits for out-patient care obtained under subparagraph (B) of paragraph one of subsection (g) of this section and this paragraph may be limited to not less than twenty visits in any contract year, plan year or calendar year.

(i) A medical expense indemnity corporation or health service corporation which provides coverage for physicians, psychiatrists or psychologists for psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in such contract, must make available and if requested by all persons holding individual contracts in a group whose premiums

are paid by a remitting agent or by the contract holder in the case of a group contract issued pursuant to section four thousand three hundred five of this article, provide the same coverage for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to article one hundred fifty-four of the education law OR A LICENSED MENTAL HEALTH COUNSELOR, WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS LICENSED PURSUANT TO ARTICLE ONE HUNDRED SIXTY-THREE OF THE EDUCATION LAW. The state board for social work shall maintain a list of all licensed clinical social workers qualified for reimbursement under this subsection. THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL LICENSED CLINICAL SOCIAL WORKERS QUALIFIED FOR REIMBURSEMENT UNDER THIS SUBSECTION. Such coverage shall be made available at the inception of all new contracts and, with respect to all other contracts, at any anniversary date subject to evidence of insurability. Written notice of the availability of such coverage shall be delivered to the group remitting agent or group contract holder prior to inception of such contract and annually thereafter, except that this notice shall not be required where a policy covers two hundred or more employees or where the benefit structure was the subject of collective bargaining affecting persons who are employed in more than one state.

(n) In addition to the requirements of subsection (i) of this section, every health service or medical expense indemnity corporation issuing a group contract pursuant to this section or a group remittance contract for delivery in this state which contract provides reimbursement to subscribers or physicians, psychiatrists or psychologists for psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in such contract, must provide the same coverage to persons covered under the group contract for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to subdivision two of section seven thousand seven hundred four of the education law OR A LICENSED MENTAL HEALTH COUNSELOR, WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS LICENSED PURSUANT TO SUBDIVISION THREE OF SECTION EIGHT THOUSAND FOUR HUNDRED TWO OF THE EDUCATION LAW and in addition shall have either (i) three or more additional years experience in psychotherapy, which for the purposes of this subsection shall mean the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially or emotionally maladaptive, under supervision, satisfactory to the state board for social work OR THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS, in a facility, licensed or incorporated by an appropriate governmental department, providing services for diagnosis or treatment of mental, nervous or emotional disorders or ailments, or (ii) three or more additional years experience in psychotherapy under the supervision, satisfactory to the state board for social work OR THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS, of a psychiatrist, a licensed and registered psychologist or a licensed clinical social worker OR LICENSED MENTAL HEALTH PRACTITIONER qualified for reimbursement pursuant to subsection (i) of this section, or (iii) a combination of the experience specified in [paragraphs] ITEMS (i) and (ii) OF THIS SUBPARAGRAPH totaling three years, satisfactory to the state board for social work OR THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS. The state board for social work shall maintain a list of all licensed clinical social workers qualified for reimbursement under this subsection. THE STATE BOARD OF MENTAL

HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL LICENSED MENTAL HEALTH COUNSELORS QUALIFIED FOR REIMBURSEMENT UNDER THIS SUBSECTION.

S 6. This act shall take effect on the ninetieth day after it shall have become a law.