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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GOTTFRIED, GUNTHER, FIELDS, PAULIN, BRADLEY,
LIFTON, LUPARDO, ENGLEBRIGHT, GABRYSZAK, SPANO, STIRPE -- Multi-Spon-
sored by -- M. of A. BRENNAN, GALEF, LENTOL, REILLY, SEMINERIO --
read once and referred to the Committee on Higher Education

AN ACT to amend the education law, the insurance law and the public
health law, in relation to services performed by nurse practitioners

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

1 Section 1. Subdivision 3 of section 6902 of the education law, as
2 added by chapter 257 of the laws of 1988, is amended to read as follows:
3 3. (a) The practice of registered professional nursing by a nurse
4 practitioner, certified under section six thousand nine hundred ten of
5 this article, may include the diagnosis of illness and physical condi-
6 tions and the performance of therapeutic and corrective measures within
7 a specialty area of practice[, in collaboration with a licensed physi-
8 cian qualified to collaborate in the specialty involved, provided such
9 services are performed in accordance with a written practice agreement
10 and written practice protocols. The written practice agreement shall
11 include explicit provisions for the resolution of any disagreement
12 between the collaborating physician and the nurse practitioner regarding
13 a matter of diagnosis or treatment that is within the scope of practice
14 of both. To the extent the practice agreement does not so provide, then
15 the collaborating physician's diagnosis or treatment shall prevail].
16 (b) Prescriptions for drugs, devices and immunizing agents may be
17 issued by a nurse practitioner, under this subdivision and section six
18 thousand nine hundred ten of this article[, in accordance with the prac-
19 tice agreement and practice protocols]. The nurse practitioner shall
20 obtain a certificate from the department upon successfully completing a
21 program including an appropriate pharmacology component, or its equiv-
22 alent, as established by the commissioner's regulations, prior to

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

LBD00773-01-9

1 prescribing under this subdivision. The certificate issued under section
2 six thousand nine hundred ten of this article shall state whether the
3 nurse practitioner has successfully completed such a program or equiv-
4 alent and is authorized to prescribe under this subdivision.

5 (c) [Each practice agreement shall provide for patient records review
6 by the collaborating physician in a timely fashion but in no event less
7 often than every three months. The names of the nurse practitioner and
8 the collaborating physician shall be clearly posted in the practice
9 setting of the nurse practitioner.

10 (d) The practice protocol shall reflect current accepted medical and
11 nursing practice. The protocols shall be filed with the department with-
12 in ninety days of the commencement of the practice and may be updated
13 periodically. The commissioner shall make regulations establishing the
14 procedure for the review of protocols and the disposition of any issues
15 arising from such review.

16 (e) No physician shall enter into practice agreements with more than
17 four nurse practitioners who are not located on the same physical prem-
18 ises as the collaborating physician.

19 (f)] Nothing in this subdivision shall be deemed to limit or diminish
20 the practice of the profession of nursing as a registered professional
21 nurse under this article or any other law, rule, regulation or certifi-
22 cation, nor to deny any registered professional nurse the right to do
23 any act or engage in any practice authorized by this article or any
24 other law, rule, regulation or certification.

25 [(g)] (D) The provisions of this subdivision shall not apply to any
26 activity authorized, pursuant to statute, rule or regulation, to be
27 performed by a registered professional nurse in a hospital as defined in
28 article twenty-eight of the public health law.

29 S 2. The education law is amended by adding a new section 6911 to read
30 as follows:

31 S 6911. NURSE PRACTITIONER ADVISORY PANEL. A NINE MEMBER NURSE PRACTI-
32 TIONER ADVISORY PANEL SHALL BE APPOINTED BY THE BOARD OF REGENTS ON
33 RECOMMENDATION OF THE COMMISSIONER FOR THE PURPOSE OF ASSISTING THE
34 BOARD OF REGENTS, THE BOARD FOR NURSING, AND THE COMMISSIONER ON MATTERS
35 RELATED TO THE PRACTICE OF REGISTERED NURSING AS A NURSE PRACTITIONER.
36 THE PANEL SHALL BE COMPOSED OF AT LEAST SIX LICENSED AND CERTIFIED NURSE
37 PRACTITIONERS, AND AT LEAST TWO PERSONS TO REPRESENT CONSUMERS AND
38 PATIENT GROUPS.

39 S 3. Subsection (i) of section 3216 of the insurance law is amended by
40 adding a new paragraph 26 to read as follows:

41 (26) EVERY POLICY WHICH PROVIDES COVERAGE FOR PHYSICIAN SERVICES IN A
42 PHYSICIAN'S OFFICE, AND EVERY POLICY WHICH PROVIDES MAJOR MEDICAL OR
43 SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL PROVIDE THE SAME COVERAGE FOR
44 SUCH SERVICES WHEN PERFORMED BY A NURSE PRACTITIONER, INCLUDING A NURSE
45 PRACTITIONER PRACTICING INDEPENDENTLY, ACTING WITHIN THE LAWFUL SCOPE OF
46 HIS OR HER PRACTICE AND CERTIFIED PURSUANT TO ARTICLE ONE HUNDRED THIR-
47 TY-NINE OF THE EDUCATION LAW. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL
48 DEDUCTIBLES AND COINSURANCE AS MAY BE DEEMED APPROPRIATE AND AS ARE
49 CONSISTENT WITH OTHER BENEFITS COVERED UNDER THE POLICY.

50 S 4. Subsection (k) of section 3221 of the insurance law is amended by
51 adding a new paragraph 15 to read as follows:

52 (15) EVERY POLICY WHICH PROVIDES COVERAGE FOR PHYSICIAN SERVICES IN A
53 PHYSICIAN'S OFFICE, AND EVERY POLICY WHICH PROVIDES MAJOR MEDICAL OR
54 SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL PROVIDE THE SAME COVERAGE FOR
55 SUCH SERVICES WHEN PERFORMED BY A NURSE PRACTITIONER, INCLUDING A NURSE
56 PRACTITIONER PRACTICING INDEPENDENTLY, ACTING WITHIN THE LAWFUL SCOPE OF

1 HIS OR HER PRACTICE AND CERTIFIED PURSUANT TO ARTICLE ONE HUNDRED THIR-
2 TY-NINE OF THE EDUCATION LAW. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL
3 DEDUCTIBLES AND COINSURANCE AS MAY BE DEEMED APPROPRIATE AND AS ARE
4 CONSISTENT WITH OTHER BENEFITS COVERED UNDER THE POLICY.

5 S 5. Subparagraphs (G) and (H) of paragraph 4 of subsection (f) of
6 section 4235 of the insurance law, as relettered by chapter 456 of the
7 laws of 1993, are amended and a new subparagraph (I) is added to read as
8 follows:

9 (G) psychiatric or psychological services or for the diagnosis and
10 treatment of mental, nervous, or emotional disorders or ailments, howev-
11 er defined in such policy, a subscriber to such policy shall be entitled
12 to reimbursement for such psychiatric or psychological services or diag-
13 nosis or treatment whether performed by a physician, psychiatrist or a
14 certified and registered psychologist when the services rendered are
15 within the lawful scope of their practice, and when such policy or any
16 certificate issued thereunder is delivered or issued for delivery with-
17 out this state by an authorized insurer, covered persons residing in
18 this state shall be entitled to reimbursement for such diagnosis and
19 treatment by a physician, psychiatrist or a certified and registered
20 psychologist as hereinabove provided; [and]

21 (H) any service which is within the lawful scope of practice of a
22 licensed chiropractor, a subscriber to such policy shall be entitled to
23 reimbursement for such service when such service is performed by a
24 licensed chiropractor[.]; AND

25 (I) ANY SERVICE WHICH IS WITHIN THE LAWFUL SCOPE OF PRACTICE OF A
26 CERTIFIED NURSE PRACTITIONER, A SUBSCRIBER TO SUCH POLICY SHALL BE ENTI-
27 TLED TO REIMBURSEMENT FOR SUCH SERVICE WHEN SAID SERVICE IS PERFORMED BY
28 A CERTIFIED NURSE PRACTITIONER, INCLUDING A NURSE PRACTITIONER PRACTIC-
29 ING INDEPENDENTLY, ACTING WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE
30 AND CERTIFIED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-NINE OF THE EDUCA-
31 TION LAW.

32 S 6. Section 4303 of the insurance law is amended by adding a new
33 subsection (ff) to read as follows:

34 (FF) EVERY CONTRACT ISSUED BY A HEALTH SERVICE CORPORATION OR A
35 MEDICAL EXPENSE INDEMNITY CORPORATION WHICH PROVIDES COVERAGE FOR PHYSI-
36 CIAN SERVICES IN A PHYSICIAN'S OFFICE, AND EVERY CONTRACT WHICH PROVIDES
37 MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE, SHALL PROVIDE THE
38 SAME COVERAGE FOR SUCH SERVICES WHEN PERFORMED BY A NURSE PRACTITIONER,
39 INCLUDING A NURSE PRACTITIONER PRACTICING INDEPENDENTLY, ACTING WITHIN
40 THE LAWFUL SCOPE OF HIS OR HER PRACTICE AND CERTIFIED PURSUANT TO ARTI-
41 CLE ONE HUNDRED THIRTY-NINE OF THE EDUCATION LAW. SUCH COVERAGE MAY BE
42 SUBJECT TO ANNUAL DEDUCTIBLES AND COINSURANCE AS MAY BE DEEMED APPROPRI-
43 ATE AND AS ARE CONSISTENT WITH OTHER BENEFITS COVERED UNDER THE POLICY.

44 S 7. Paragraph (a) of subdivision 5 of section 4403 of the public
45 health law, as amended by chapter 586 of the laws of 1998, is amended to
46 read as follows:

47 (a) The commissioner, at the time of initial licensure, at least every
48 three years thereafter, and upon application for expansion of service
49 area, shall ensure that the health maintenance organization maintains a
50 network of health care providers adequate to meet the comprehensive
51 health needs of its enrollees and to provide an appropriate choice of
52 providers sufficient to provide the services covered under its
53 enrollee's contracts by determining that (i) there are a sufficient
54 number of geographically accessible participating providers; (ii) there
55 are opportunities to select from at least three primary care providers
56 pursuant to travel and distance time standards, providing that such

1 standards account for the conditions of accessing providers in rural
2 areas; (iii) there are sufficient providers in each area of specialty
3 practice to meet the needs of the enrollment population; (iv) there is
4 no exclusion of any appropriately licensed type of provider as a class,
5 INCLUDING NURSE PRACTITIONERS PRACTICING INDEPENDENTLY; and (v)
6 contracts entered into with health care providers neither transfer
7 financial risk to providers, in a manner inconsistent with the
8 provisions of paragraph (c) of subdivision one of this section, nor
9 penalize providers for unfavorable case mix so as to jeopardize the
10 quality of or enrollees' appropriate access to medically necessary
11 services; provided, however, that payment at less than prevailing fee
12 for service rates or capitation shall not be deemed or presumed prima
13 facie to jeopardize quality or access.

14 S 8. This act shall take effect immediately; provided, however, that
15 sections one, three, four, five, six and seven of this act shall take
16 effect on the one hundred eightieth day after it shall have become a
17 law; and provided, further, that effective immediately, the addition,
18 amendment and/or repeal of any rule or regulation necessary for the
19 implementation of this act on its effective date are authorized and
20 directed to be made and completed on or before such effective date.