

765--A

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, LIFTON, LUPARDO, ENGLEBRIGHT, GABRYSZAK, SPANO, STIRPE, HOOPER, SCHROEDER, N. RIVERA, JAFFEE, SCARBOROUGH, ROSENTHAL, CAHILL, PRETLOW -- Multi-Sponsored by -- M. of A. BING, BRENNAN, CUSICK, GALEF, HEVESI, LATIMER, LAVINE, LENTOL, REILLY -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education 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 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 ASSEMBLY, 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

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

LBD00773-04-0

1 thousand nine hundred ten of this article[, in accordance with the prac-
2 tice agreement and practice protocols]. The nurse practitioner shall
3 obtain a certificate from the department upon successfully completing a
4 program including an appropriate pharmacology component, or its equiv-
5 alent, as established by the commissioner's regulations, prior to
6 prescribing under this subdivision. The certificate issued under section
7 six thousand nine hundred ten of this article shall state whether the
8 nurse practitioner has successfully completed such a program or equiv-
9 alent and is authorized to prescribe under this subdivision.

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

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

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

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

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

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

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

44 S 3. Subsection (i) of section 3216 of the insurance law is amended by
45 adding a new paragraph 27 to read as follows:

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

55 S 4. Subsection (k) of section 3221 of the insurance law is amended by
56 adding a new paragraph 16 to read as follows:

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

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

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

(I) ANY SERVICE WHICH IS WITHIN THE LAWFUL SCOPE OF PRACTICE OF A CERTIFIED NURSE PRACTITIONER, A SUBSCRIBER TO SUCH POLICY SHALL BE ENTITLED TO REIMBURSEMENT FOR SUCH SERVICE WHEN SAID SERVICE IS PERFORMED BY A CERTIFIED NURSE PRACTITIONER, INCLUDING A NURSE PRACTITIONER PRACTICING INDEPENDENTLY, ACTING WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE AND CERTIFIED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-NINE OF THE EDUCATION LAW.

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

(GG) EVERY CONTRACT ISSUED BY A HEALTH SERVICE CORPORATION OR A MEDICAL EXPENSE INDEMNITY CORPORATION WHICH PROVIDES COVERAGE FOR PHYSICIAN SERVICES IN A PHYSICIAN'S OFFICE, AND EVERY CONTRACT WHICH PROVIDES MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE, SHALL PROVIDE THE SAME COVERAGE FOR SUCH SERVICES WHEN PERFORMED BY A NURSE PRACTITIONER, INCLUDING A NURSE PRACTITIONER PRACTICING INDEPENDENTLY, ACTING WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE AND CERTIFIED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-NINE OF THE EDUCATION LAW. SUCH COVERAGE MAY BE SUBJECT TO ANNUAL DEDUCTIBLES AND COINSURANCE AS MAY BE DEEMED APPROPRIATE AND AS ARE CONSISTENT WITH OTHER BENEFITS COVERED UNDER THE POLICY.

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

(a) The commissioner, at the time of initial licensure, at least every three years thereafter, and upon application for expansion of service area, shall ensure that the health maintenance organization maintains a network of health care providers adequate to meet the comprehensive health needs of its enrollees and to provide an appropriate choice of

1 providers sufficient to provide the services covered under its
2 enrollee's contracts by determining that (i) there are a sufficient
3 number of geographically accessible participating providers; (ii) there
4 are opportunities to select from at least three primary care providers
5 pursuant to travel and distance time standards, providing that such
6 standards account for the conditions of accessing providers in rural
7 areas; (iii) there are sufficient providers in each area of specialty
8 practice to meet the needs of the enrollment population; (iv) there is
9 no exclusion of any appropriately licensed type of provider as a class,
10 INCLUDING NURSE PRACTITIONERS PRACTICING INDEPENDENTLY; and (v)
11 contracts entered into with health care providers neither transfer
12 financial risk to providers, in a manner inconsistent with the
13 provisions of paragraph (c) of subdivision one of this section, nor
14 penalize providers for unfavorable case mix so as to jeopardize the
15 quality of or enrollees' appropriate access to medically necessary
16 services; provided, however, that payment at less than prevailing fee
17 for service rates or capitation shall not be deemed or presumed prima
18 facie to jeopardize quality or access.

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