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

4453--A

2011-2012 Regular Sessions

I N S E N A T E

April 6, 2011

Introduced by Sens. DeFRANCISCO, LARKIN, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law and the public health law, in relation to the definitions of "clinical peer reviewer" for the purposes of utilization review and external appeal

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

Section 1. Subsection (b) of section 4900 of the insurance law, as amended by chapter 586 of the laws of 1998, is amended to read as follows:

(b) "Clinical peer reviewer" means:

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

(A) a physician who possesses a current and valid non-restricted license to practice medicine PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW; or

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

(i) where applicable, possesses a current and valid non-restricted license, certificate or registration [or, where no provision for a license, certificate or registration exists, is credentialed by the national accrediting body appropriate to the profession] ISSUED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW; and

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

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

(A) a physician who:

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

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(i) possesses a current and valid non-restricted license to practice medicine PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW;
(ii) where applicable, is board certified or board eligible in the same [or similar] specialty as the health care provider who typically manages the medical condition or disease or provides the health care service or treatment under appeal;
(iii) has been practicing in such area of specialty for a period of at least five years; and
(iv) is knowledgeable about the health care service or treatment under appeal; or
(B) a health care professional other than a licensed physician who:
(i) where applicable, possesses a current and valid non-restricted license, certificate or registration ISSUED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW;
(ii) [where applicable, is credentialed by the national accrediting body appropriate to the profession in the same profession and same or similar specialty as the health care provider who typically manages the medical condition or disease or provides the health care service or treatment under appeal;
(iii)] has been practicing in such area of specialty for a period of at least five years;
[(iv)] (III) is knowledgeable about the health care service or treatment under appeal; and
[(v)] (IV) where applicable to such health care professional's scope of practice, is clinically supported by a physician who possesses a current and valid non-restricted license to practice medicine PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW.
(3) Nothing [herein] IN THIS ARTICLE shall be construed to change any statutorily-defined scope of practice.
S 2. Subdivision 2 of section 4900 of the public health law, as amended by chapter 586 of the laws of 1998, is amended to read as follows:
2. "Clinical peer reviewer" means:
(a) for purposes of title one of this article:
(i) a physician who possesses a current and valid non-restricted license to practice medicine PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW; or
(ii) a health care professional other than a licensed physician who:
(A) where applicable, possesses a current and valid non-restricted license, certificate or registration [or, where no provision for a license, certificate or registration exists, is credentialed by the national accrediting body appropriate to the profession] ISSUED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW; and
(B) is in the same profession and same [or similar] specialty as the health care provider who typically manages the medical condition or disease or provides the health care service or treatment under review; and
(b) for purposes of title two of this article:
(i) a physician who:
(A) possesses a current and valid non-restricted license to practice medicine PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW;
(B) where applicable, is board certified or board eligible in the same [or similar] specialty as the health care provider who typically manages

the medical condition or disease or provides the health care service or treatment under appeal;

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

(D) is knowledgeable about the health care service or treatment under appeal; or

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

(A) where applicable, possesses a current and valid non-restricted license, certificate or registration ISSUED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW;

(B) [where applicable, is credentialed by the national accrediting body appropriate to the profession in the same profession and same or similar specialty as the health care provider who typically manages the medical condition or disease or provides the health care service or treatment under appeal;

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

[(D)] (C) is knowledgeable about the health care service or treatment under appeal; and

[(E)] (D) where applicable to such health care professional's scope of practice, is clinically supported by a physician who possesses a current and valid non-restricted license to practice medicine PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW.

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

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.