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I N A S S E M B L Y

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Introduced by M. of A. GOTTFRIED, DINOWITZ, GALEF, PAULIN, ROSENTHAL, SCHIMEL, KAVANAGH, COLTON, JAFFEE, ABINANTI -- read once and referred to the Committee on Health -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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 ASSEMBLY, 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, item (B) of subparagraph
3 (ii) of paragraph (a) as amended and subparagraph (iii) of paragraph (a)
4 as added by chapter 41 of the laws of 2014, is amended to read as
5 follows:
6 2. "Clinical peer reviewer" means:
7 (a) [for purposes of title one of this article:
8 (i) a physician who possesses a current and valid non-restricted
9 license to practice medicine; or
10 (ii) a health care professional other than a licensed physician who:
11 (A) where applicable, possesses a current and valid non-restricted
12 license, certificate or registration or, where no provision for a
13 license, certificate or registration exists, is credentialed by the
14 national accrediting body appropriate to the profession; and
15 (B) is in the same profession and same or similar specialty as the
16 health care provider who typically manages the medical condition or
17 disease or provides the health care service or treatment under review;
18 or
19 (iii) for purposes of a determination involving substance use disorder
20 treatment:
21 (A) a physician who possesses a current and valid non-restricted
22 license to practice medicine and who specializes in behavioral health

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

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1 and has experience in the delivery of substance use disorder courses of
2 treatment; or

3 (B) a health care professional other than a licensed physician who
4 specializes in behavioral health and has experience in the delivery of
5 substance use disorder courses of treatment and, where applicable,
6 possesses a current and valid non-restricted license, certificate or
7 registration or, where no provision for a license, certificate or regis-
8 tration exists, is credentialed by the national accrediting body appro-
9 priate to the profession; and

10 (b) for purposes of title two of this article:

11 (i)] a physician who:

12 [(A)] (I) possesses a current and valid non-restricted license to
13 practice medicine UNDER ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION
14 LAW;

15 [(B)] (II) where applicable, is board certified or board eligible in
16 the same or similar specialty as the health care provider who typically
17 manages the medical condition or disease or provides the health care
18 service or treatment under appeal;

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

21 (IV) FOR PURPOSES OF A DETERMINATION INVOLVING SUBSTANCE USE DISORDER
22 TREATMENT, POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE TO PRAC-
23 TICE MEDICINE AND SPECIALIZES IN BEHAVIORAL HEALTH AND HAS EXPERIENCE IN
24 THE DELIVERY OF SUBSTANCE USE DISORDER COURSES OF TREATMENT; and

25 [(D)] (V) is knowledgeable about the health care service or treatment
26 under REVIEW OR appeal; or

27 [(ii)] (B) a health care professional other than a licensed physician
28 who POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE OR CERTIF-
29 ICATION UNDER TITLE EIGHT OF THE EDUCATION LAW:

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

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

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

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

41 (V) FOR PURPOSES OF A DETERMINATION INVOLVING SUBSTANCE USE DISORDER,
42 SPECIALIZES IN BEHAVIORAL HEALTH AND HAS EXPERIENCE IN THE DELIVERY OF
43 SUBSTANCE USE DISORDER COURSES OF TREATMENT AND, WHERE APPLICABLE,
44 POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE, CERTIFICATE OR
45 REGISTRATION OR, WHERE NO PROVISION FOR A LICENSE, CERTIFICATE OR REGIS-
46 TRATION EXISTS, IS CREDENTIALLED BY THE NATIONAL ACCREDITING BODY APPRO-
47 PRIATE TO THE PROFESSION; and

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

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

53 S 2. Subsection (b) of section 4900 of the insurance law, as amended
54 by chapter 586 of the laws of 1998, item (ii) of subparagraph (B) of
55 paragraph 1 as amended and subparagraph (C) of paragraph 1 as added by
56 chapter 41 of the laws of 2014, 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; 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; 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; or

(C) for purposes of a determination involving substance use disorder treatment:

(i) a physician who possesses a current and valid non-restricted license to practice medicine and who specializes in behavioral health and has experience in the delivery of substance use disorder courses of treatment; or

(ii) a health care professional other than a licensed physician who specializes in behavioral health and has experience in the delivery of substance use disorder courses of treatment and, 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; and

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

(A)] a physician who:

[(i)] (A) possesses a current and valid non-restricted license to practice medicine UNDER ARTICLE ONE HUNDRED THIRTY-ONE OF THE EDUCATION LAW;

[(ii)] (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 REVIEW OR appeal;

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

(D) FOR PURPOSES OF A DETERMINATION INVOLVING SUBSTANCE USE DISORDER TREATMENT, POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE TO PRACTICE MEDICINE AND WHO SPECIALIZES IN BEHAVIORAL HEALTH AND HAS EXPERIENCE IN THE DELIVERY OF SUBSTANCE USE DISORDER COURSES OF TREATMENT; and

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

[(B)] (2) a health care professional other than a licensed physician who POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE OR CERTIFICATION UNDER TITLE EIGHT OF THE EDUCATION LAW:

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

[(ii)] (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 REVIEW OR appeal;

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

1 ~~[(iv)]~~ (D) FOR PURPOSES OF A DETERMINATION INVOLVING SUBSTANCE USE
2 DISORDER TREATMENT, SPECIALIZES IN BEHAVIORAL HEALTH AND HAS EXPERIENCE
3 IN THE DELIVERY OF SUBSTANCE USE DISORDER COURSES OF TREATMENT AND,
4 WHERE APPLICABLE, POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE,
5 CERTIFICATE OR REGISTRATION OR, WHERE NO PROVISION FOR A LICENSE,
6 CERTIFICATE OR REGISTRATION EXISTS, IS CREDENTIALLED BY THE NATIONAL
7 ACCREDITING BODY APPROPRIATE TO THE PROFESSION;
8 (E) is knowledgeable about the health care service or treatment under
9 REVIEW OR appeal; and
10 ~~[(v)]~~ (F) 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 SUBDIVISION shall be construed to
14 change 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.