

5486--A

Cal. No. 1284

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sens. ORTT, AMEDORE, FELDER, HANNON, MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the social services law, the public health law and the insurance law, in relation to prohibiting a provider of health care coverage from requiring providers of behavioral health services to offer all products offered by the provider of health care coverage

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

1 Section 1. Section 365-m of the social services law is amended by
2 adding a new subdivision 6 to read as follows:
3 6. (A) NO MANAGED CARE PROVIDER UNDER SECTION THREE HUNDRED
4 SIXTY-FOUR-J OF THIS TITLE SHALL BY CONTRACT OR WRITTEN POLICY OR PROCE-
5 DURE, REQUIRE A BEHAVIORAL HEALTH SERVICES PROVIDER TO PARTICIPATE IN
6 THE IN-NETWORK PORTION OF ANY PRODUCT OFFERED BY SUCH MANAGED CARE
7 PROVIDER, OTHER THAN PRODUCTS UNDER SUCH SECTION. BEHAVIORAL HEALTH
8 SERVICES PROVIDERS SHALL HAVE THE RIGHT TO SELECT BY EXECUTION OF A
9 SEPARATE AGREEMENT THE PRODUCTS OF SUCH MANAGED CARE PROVIDER IN WHICH
10 THE PROVIDER AGREES TO PARTICIPATE IN THE IN-NETWORK PORTION.
11 (B) AS USED IN THIS SUBDIVISION, "BEHAVIORAL HEALTH SERVICES" MEANS
12 INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE
13 LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF
14 THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH
15 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF
16 THE PUBLIC HEALTH LAW, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE
17 MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.
18 S 2. Section 2511 of the public health law is amended by adding a new
19 subdivision 22 to read as follows:

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

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22. (A) NO APPROVED ORGANIZATION SHALL BY CONTRACT OR WRITTEN POLICY OR PROCEDURE, REQUIRE A BEHAVIORAL HEALTH SERVICES PROVIDER TO PARTICIPATE IN THE IN-NETWORK PORTION OF ANY PRODUCT OFFERED BY SUCH ORGANIZATION, OTHER THAN PRODUCTS UNDER THIS TITLE. BEHAVIORAL HEALTH SERVICES PROVIDERS SHALL HAVE THE RIGHT TO SELECT BY EXECUTION OF A SEPARATE AGREEMENT THE PRODUCTS OF SUCH APPROVED ORGANIZATION IN WHICH THE PROVIDER AGREES TO PARTICIPATE IN THE IN-NETWORK PORTION.

(B) AS USED IN THIS SUBDIVISION, "BEHAVIORAL HEALTH SERVICES" MEANS INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THIS CHAPTER, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THIS CHAPTER.

S 3. Section 4406-c of the public health law is amended by adding a new subdivision 9 to read as follows:

9. (A) NO HEALTH CARE PLAN LICENSED PURSUANT TO THIS ARTICLE SHALL BY CONTRACT OR WRITTEN POLICY OR PROCEDURE, REQUIRE A BEHAVIORAL HEALTH SERVICES PROVIDER TO PARTICIPATE IN THE IN-NETWORK PORTION OF ANY PRODUCT OFFERED BY SUCH PLAN. BEHAVIORAL HEALTH SERVICES PROVIDERS SHALL HAVE THE RIGHT TO SELECT BY EXECUTION OF A SEPARATE AGREEMENT THE PRODUCTS OF SUCH PLAN IN WHICH THE PROVIDER AGREES TO PARTICIPATE IN THE IN-NETWORK PORTION.

(B) AS USED IN THIS SUBDIVISION, "BEHAVIORAL HEALTH SERVICES" MEANS INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THIS CHAPTER, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THIS CHAPTER.

S 4. Section 3217-b of the insurance law is amended by adding a new subsection (k) to read as follows:

(K) (1) NO INSURER SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL BY CONTRACT, WRITTEN POLICY OR PROCEDURE, REQUIRE A BEHAVIORAL HEALTH SERVICES PROVIDER TO PARTICIPATE IN THE IN-NETWORK PORTION OF ANY PRODUCT OFFERED BY SUCH INSURER. BEHAVIORAL HEALTH SERVICES PROVIDERS SHALL HAVE THE RIGHT TO SELECT BY EXECUTION OF A SEPARATE AGREEMENT THE PRODUCTS OF SUCH INSURERS IN WHICH THE PROVIDER AGREES TO PARTICIPATE IN THE IN-NETWORK PORTION.

(2) AS USED IN THIS SUBSECTION, "BEHAVIORAL HEALTH SERVICES" MEANS INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.

S 5. Section 4325 of the insurance law is amended by adding a new subsection (l) to read as follows:

(L) (1) NO CORPORATION ORGANIZED PURSUANT TO THIS ARTICLE SHALL BY CONTRACT, WRITTEN POLICY OR PROCEDURE, REQUIRE A BEHAVIORAL HEALTH SERVICES PROVIDER TO PARTICIPATE IN THE IN-NETWORK PORTION OF ANY PRODUCT OFFERED BY SUCH CORPORATION. BEHAVIORAL HEALTH SERVICES PROVIDERS SHALL HAVE THE RIGHT TO SELECT BY EXECUTION OF A SEPARATE AGREEMENT THE PRODUCTS OF SUCH CORPORATION IN WHICH THE PROVIDER AGREES TO PARTICIPATE IN THE IN-NETWORK PORTION.

1 (2) AS USED IN THIS SUBSECTION, "BEHAVIORAL HEALTH SERVICES" MEANS
2 INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE
3 LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF
4 THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH
5 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF
6 THE PUBLIC HEALTH LAW, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE
7 MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.

8 S 6. This act shall take effect immediately.