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2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. GOTTFRIED, DINOWITZ, GALEF, PAULIN, ROSENTHAL,
SCHIMEL, KAVANAGH, COLTON, JAFFEE -- read once and referred to the
Committee on Health

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 ASSEM-
BLY, 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;

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

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

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

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

26 [(ii)] (B) a health care professional other than a licensed physician
27 who:

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

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

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

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

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

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

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

51 S 2. Subsection (b) of section 4900 of the insurance law, as amended
52 by chapter 586 of the laws of 1998, item (ii) of subparagraph (B) of
53 paragraph 1 as amended and subparagraph (C) of paragraph 1 as added by
54 chapter 41 of the laws of 2014, is amended to read as follows:

55 (b) "Clinical peer reviewer" means:

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

1 (A) a physician who possesses a current and valid non-restricted
2 license to practice medicine; or
3 (B) a health care professional other than a licensed physician who:
4 (i) where applicable, possesses a current and valid non-restricted
5 license, certificate or registration or, where no provision for a
6 license, certificate or registration exists, is credentialed by the
7 national accrediting body appropriate to the profession; and
8 (ii) is in the same profession and same or similar specialty as the
9 health care provider who typically manages the medical condition or
10 disease or provides the health care service or treatment under review;
11 or
12 (C) for purposes of a determination involving substance use disorder
13 treatment:
14 (i) a physician who possesses a current and valid non-restricted
15 license to practice medicine and who specializes in behavioral health
16 and has experience in the delivery of substance use disorder courses of
17 treatment; or
18 (ii) a health care professional other than a licensed physician who
19 specializes in behavioral health and has experience in the delivery of
20 substance use disorder courses of treatment and, where applicable,
21 possesses a current and valid non-restricted license, certificate or
22 registration or, where no provision for a license, certificate or regis-
23 tration exists, is credentialed by the national accrediting body appro-
24 priate to the profession; and
25 (2) for purposes of title two of this article:
26 (A)] a physician who:
27 [(i)] (A) possesses a current and valid non-restricted license to
28 practice medicine;
29 [(ii)] (B) where applicable, is board certified or board eligible in
30 the same or similar specialty as the health care provider who typically
31 manages the medical condition or disease or provides the health care
32 service or treatment under REVIEW OR appeal;
33 [(iii)] (C) has been practicing in such area of specialty for a period
34 of at least five years;
35 (D) FOR PURPOSES OF A DETERMINATION INVOLVING SUBSTANCE USE DISORDER
36 TREATMENT, POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE TO PRAC-
37 TICE MEDICINE AND WHO SPECIALIZES IN BEHAVIORAL HEALTH AND HAS EXPERI-
38 ENCE IN THE DELIVERY OF SUBSTANCE USE DISORDER COURSES OF TREATMENT; and
39 [(iv)] (E) is knowledgeable about the health care service or treatment
40 under REVIEW OR appeal; or
41 [(B)] (2) a health care professional other than a licensed physician
42 who:
43 [(i)] (A) where applicable, possesses a current and valid non-res-
44 tricted license, certificate or registration;
45 [(ii)] (B) where applicable, is credentialed by the national accredit-
46 ing body appropriate to the profession in the same profession and same
47 or similar specialty as the health care provider who typically manages
48 the medical condition or disease or provides the health care service or
49 treatment under REVIEW OR appeal;
50 [(iii)] (C) has been practicing in such area of specialty for a period
51 of at least five years;
52 [(iv)] (D) FOR PURPOSES OF A DETERMINATION INVOLVING SUBSTANCE USE
53 DISORDER TREATMENT, SPECIALIZES IN BEHAVIORAL HEALTH AND HAS EXPERIENCE
54 IN THE DELIVERY OF SUBSTANCE USE DISORDER COURSES OF TREATMENT AND,
55 WHERE APPLICABLE, POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE,
56 CERTIFICATE OR REGISTRATION OR, WHERE NO PROVISION FOR A LICENSE,

1 CERTIFICATE OR REGISTRATION EXISTS, IS CREDENTIALLED BY THE NATIONAL
2 ACCREDITING BODY APPROPRIATE TO THE PROFESSION;
3 (E) is knowledgeable about the health care service or treatment under
4 REVIEW OR appeal; and
5 [(v)] (F) where applicable to such health care professional's scope of
6 practice, is clinically supported by a physician who possesses a current
7 and valid non-restricted license to practice medicine.
8 [(3)] Nothing [herein] IN THIS SUBDIVISION shall be construed to
9 change any statutorily-defined scope of practice.
10 S 3. This act shall take effect on the ninetieth day after it shall
11 have become a law; provided, however, that if the amendments to section
12 4900 of the public health law and section 4900 of the insurance law made
13 by chapter 41 of the laws of 2014 shall not have taken effect by such
14 date then this act shall take effect on the same date as such chapter.