

2874--A

2015-2016 Regular Sessions

I N   S E N A T E

January 29, 2015

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Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor 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 workers' compensation law, in relation to chiropractic care

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

1     Section 1. Legislative intent. The legislature recognizes that multi-  
2     ple health professionals are trained and licensed to diagnose and treat  
3     the same or similar conditions through the use of modalities, therapies,  
4     treatments, services and philosophies that vary from profession to  
5     profession. It is the specific intent of this legislature to assure that  
6     workers' compensation policies, plans and contracts that provide cover-  
7     age for the diagnosis and treatment of conditions, complaints, ailments,  
8     disorders or injuries, that may be diagnosed and treated by a doctor of  
9     chiropractic, must provide equivalent access, coverage and fees for the  
10    diagnosis and treatment of those conditions, complaints or injuries by a  
11    duly licensed doctor of chiropractic, within the lawful scope of chirop-  
12    ractic practice even if different terminology, philosophy, services,  
13    treatments or modalities are used by the various health professions; and  
14    such equivalent coverage shall not be abridged by any regulation.

15    S 2. Subdivision 2 of section 13-1 of the workers' compensation law,  
16    as amended by chapter 473 of the laws of 2000, is amended to read as  
17    follows:

18    2. (A) An employee injured under circumstances which make such injury  
19    compensable under this article, when care is required for an injury  
20    which consists solely of a condition which may lawfully be treated by a  
21    chiropractor as defined in section sixty-five hundred fifty-one of the  
22    education law may select to treat him or her, any duly registered and

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

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1 licensed chiropractor of the state of New York, authorized by the chair  
2 to render chiropractic care as hereinafter provided. If the injury or  
3 condition is one which is outside the limits prescribed by the education  
4 law for chiropractic care and treatment, the said chiropractor must so  
5 advise the said injured employee and instruct him or her to consult a  
6 physician of said employee's choice for appropriate care and treatment.  
7 Such physician shall thenceforth have supervision of the treatment of  
8 said condition including the future treatment to be administered to the  
9 patient by the chiropractor. A chiropractor licensed and registered to  
10 practice chiropractic in the state of New York, who is desirous of being  
11 authorized to render chiropractic care under this section and/or to  
12 conduct independent medical examinations in accordance with paragraph  
13 (b) of subdivision three of this section shall file an application for  
14 authorization under this section with the chiropractic practice commit-  
15 tee. In such application he or she shall agree to refrain from subse-  
16 quently treating for remuneration, as a private patient, any person  
17 seeking chiropractic treatment, or submitting to an independent medical  
18 examination, in connection with, or as a result of, any injury compensa-  
19 ble under this chapter, if he or she has been removed from the list of  
20 chiropractors authorized to render chiropractic care or to conduct inde-  
21 pendent medical examinations under this chapter, or if the person seek-  
22 ing such treatment has been transferred from his or her care in accord-  
23 ance with the provisions of this section. This agreement shall run to  
24 the benefit of the injured person so treated, or examined, and shall be  
25 available to him or her as a defense in any action by such chiropractor  
26 for payment rendered by a chiropractor after he or she has been removed  
27 from the list of chiropractors authorized to render chiropractic care or  
28 to conduct independent medical examinations under this section, or after  
29 the injured person was transferred from his or her care in accordance  
30 with the provisions of this section. The chiropractic practice committee  
31 if it deems such licensed chiropractor duly qualified shall recommend to  
32 the chair that such be authorized to render chiropractic care and/or to  
33 conduct independent medical examinations under this section. Such recom-  
34 mendations shall be advisory to the chair only and shall not be binding  
35 or conclusive upon him or her. The chair shall prepare and establish a  
36 schedule for the state, or schedules limited to defined localities of  
37 charges and fees for chiropractic treatment and care, to be determined  
38 in accordance with and to be subject to change pursuant to rules promul-  
39 gated by the chair. THE CHIROPRACTIC FEE SCHEDULE PREPARED AND ESTAB-  
40 LISHED BY THE CHAIR SHALL PROVIDE FOR THE PAYMENT OF REMUNERATION WHICH  
41 IS EQUIVALENT TO THAT APPLICABLE TO CARE OR TREATMENT PROVIDED BY PHYSI-  
42 CIANS IN THE DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR  
43 CONDITIONS, INJURIES, COMPLAINTS, DISORDERS OR AILMENTS, EVEN IF DIFFER-  
44 ING NOMENCLATURE IS USED TO DESCRIBE THE CONDITION, INJURY, TREATMENT OR  
45 SERVICE. Before preparing such schedule for the state or schedules for  
46 limited localities the chair shall request the chiropractic practice  
47 committee to submit to him or her a report on the amount of remuneration  
48 deemed by such committee to be fair and adequate for the types of  
49 chiropractic care to be rendered under this chapter, but consideration  
50 shall be given to the view of other interested parties, the amounts  
51 payable by the employer for such treatment and services shall be the  
52 fees and charges established by such schedule. CHIROPRACTIC CARE AND  
53 TREATMENT MAY BE SUBJECT TO REASONABLE UTILIZATION REVIEW, PROVIDED THAT  
54 ANY SUCH REVIEW: (I) SHALL NOT DISCRIMINATE AGAINST CHIROPRACTIC CARE,  
55 AND (II) SHALL BE NO MORE RESTRICTIVE THAN THAT APPLICABLE TO CARE OR  
56 TREATMENT PROVIDED BY PHYSICIANS IN THE DIAGNOSIS, TREATMENT AND MANAGE-

MENT OF THE SAME OR SIMILAR CONDITIONS, INJURIES, COMPLAINTS, DISORDERS OR AILMENTS, EVEN IF DIFFERING NOMENCLATURE IS USED TO DESCRIBE THE CONDITION, INJURY, TREATMENT OR SERVICE. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS IMPEDING OR PREVENTING EITHER THE PROVISION OR COVERAGE OF CHIROPRACTIC CARE AND TREATMENT BY DULY LICENSED DOCTORS OF CHIROPRACTIC, WITHIN THE LAWFUL SCOPE OF CHIROPRACTIC PRACTICE, IN HOSPITAL FACILITIES ON STAFF OR EMPLOYEE BASIS.

(B) EVERY POLICY WHICH INCLUDES COVERAGE FOR PHYSICIAN SERVICES IN A PHYSICIAN'S OFFICE, OTHER THAN A POLICY THAT PROVIDES MANAGED CARE COVERAGE, SHALL PROVIDE COVERAGE FOR CARE PROVIDED IN THE PRACTICE OF CHIROPRACTIC, AS DEFINED IN SECTION SIXTY-FIVE HUNDRED FIFTY-ONE OF THE EDUCATION LAW, PROVIDED BY A DOCTOR OF CHIROPRACTIC LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH THE DETECTION OR CORRECTION BY MANUAL OR MECHANICAL MEANS OF STRUCTURAL IMBALANCE, DISTORTION OR SUBLUXATION IN THE HUMAN BODY FOR THE PURPOSE OF REMOVING NERVE INTERFERENCE, AND THE EFFECTS THEREOF, WHERE SUCH INTERFERENCE IS THE RESULT OF OR RELATED TO DISTORTION, MISALIGNMENT OR SUBLUXATION OF OR IN THE VERTEBRAL COLUMN. CHIROPRACTIC CARE AND SERVICES MAY BE SUBJECT TO REASONABLE FEE SCHEDULES AND REASONABLE UTILIZATION REVIEW, PROVIDED THAT ANY SUCH SCHEDULES AND REVIEW: (I) SHALL NOT DISCRIMINATE AGAINST CHIROPRACTIC CARE, AND (II) INDIVIDUALLY AND COLLECTIVELY SHALL BE NO MORE RESTRICTIVE THAN THOSE APPLICABLE UNDER THE SAME POLICY TO CARE OR SERVICES PROVIDED BY PHYSICIANS IN THE DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR CONDITIONS, INJURIES, COMPLAINTS, DISORDERS OR AILMENTS, EVEN IF DIFFERING NOMENCLATURE IS USED TO DESCRIBE THE CONDITION, INJURY, COMPLAINT, TREATMENT OR SERVICE. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS IMPEDING OR PREVENTING EITHER THE PROVISION OR COVERAGE OF CHIROPRACTIC CARE AND SERVICES BY DULY LICENSED DOCTORS OF CHIROPRACTIC, WITHIN THE LAWFUL SCOPE OF CHIROPRACTIC PRACTICE, IN HOSPITAL FACILITIES ON A STAFF OR EMPLOYEE BASIS.

(C) THE COVERAGE REQUIRED BY THIS SUBDIVISION SHALL NOT BE ABRIDGED BY ANY REGULATION PROMULGATED BY THE CHAIR, THE BOARD OR THE SUPERINTENDENT OF FINANCIAL SERVICES.

S 3. The workers' compensation law is amended by adding a new section 356 to read as follows:

S 356. PREFERRED PROVIDER ORGANIZATIONS; CHIROPRACTIC TREATMENT. 1. EACH PREFERRED PROVIDER ORGANIZATION SHALL PROVIDE COVERAGE FOR CARE AND TREATMENT PROVIDED IN THE COURSE OF THE PRACTICE OF CHIROPRACTIC, AS DEFINED IN SECTION SIXTY-FIVE HUNDRED FIFTY-ONE OF THE EDUCATION LAW, PROVIDED BY A DOCTOR OF CHIROPRACTIC LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH THE DETECTION OR CORRECTION BY MANUAL OR MECHANICAL MEANS OF STRUCTURAL IMBALANCE, DISTORTION OR SUBLUXATION IN THE HUMAN BODY FOR THE PURPOSE OF REMOVING NERVE INTERFERENCE, AND THE EFFECTS THEREOF, WHERE SUCH INTERFERENCE IS THE RESULT OF OR RELATED TO DISTORTION, MISALIGNMENT OR SUBLUXATION OF OR IN THE VERTEBRAL COLUMN. CHIROPRACTIC CARE AND TREATMENT MAY BE SUBJECT TO REASONABLE FEE SCHEDULES, AND REASONABLE UTILIZATION REVIEW, PROVIDED THAT ANY SUCH SCHEDULES AND REVIEW: (A) SHALL NOT DISCRIMINATE AGAINST CHIROPRACTIC CARE; AND (B) INDIVIDUALLY AND COLLECTIVELY SHALL BE NO MORE RESTRICTIVE THAN THOSE APPLICABLE WITHIN THE PREFERRED PROVIDER ORGANIZATION TO CARE OR TREATMENT PROVIDED BY PHYSICIANS IN THE DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR CONDITIONS, INJURIES OR COMPLAINTS, EVEN IF DIFFERING NOMENCLATURE IS USED TO DESCRIBE THE CONDITION, INJURY, COMPLAINT, TREATMENT OR SERVICE. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS IMPEDING OR PREVENTING

1 EITHER THE PROVISION OR COVERAGE OF CHIROPRACTIC CARE AND TREATMENT BY  
2 DULY LICENSED DOCTORS OF CHIROPRACTIC, WITHIN THE LAWFUL SCOPE OF  
3 CHIROPRACTIC PRACTICE, IN HOSPITAL FACILITIES ON A STAFF OR EMPLOYEE  
4 BASIS.

5 2. EACH PREFERRED PROVIDER ORGANIZATION SHALL INCLUDE A SUFFICIENT  
6 NUMBER OF CHIROPRACTORS WITHIN EACH GEOGRAPHIC AREA TO ASSURE ACCESS TO  
7 CHIROPRACTIC TREATMENT THAT IS EQUAL TO THAT AVAILABLE TO MEDICAL TREAT-  
8 MENT WITHIN THE SAME PREFERRED PROVIDER ORGANIZATION.

9 3. AN EMPLOYEE MAY SEEK CHIROPRACTIC TREATMENT FROM OUTSIDE THE  
10 PREFERRED PROVIDER ORGANIZATION THIRTY DAYS AFTER HIS OR HER VISIT TO A  
11 PREFERRED PROVIDER ORGANIZATION PROVIDER. IN THE EVENT THAT SUCH EMPLOY-  
12 EE SEEKS CHIROPRACTIC TREATMENT OUTSIDE THE PREFERRED PROVIDER ORGANIZA-  
13 TION, THE EMPLOYER MAY REQUIRE A SECOND OPINION FROM A PROVIDER WITHIN  
14 THE PREFERRED PROVIDER ORGANIZATION.

15 4. AN EMPLOYEE MAY SEEK A SECOND OPINION WITH RESPECT TO SUCH CHIROP-  
16 RACTIC TREATMENT FROM ANOTHER PROVIDER WITHIN THE PREFERRED PROVIDER  
17 ORGANIZATION AT ANY TIME.

18 5. THE COVERAGE REQUIRED BY THIS SECTION SHALL NOT BE ABRIDGED BY ANY  
19 REGULATION PROMULGATED BY THE CHAIR OR THE BOARD.

20 S 4. This act shall take effect January 1, 2017 and shall apply to  
21 policies and contracts issued, renewed, modified, altered or amended on  
22 or after such effective date.