

4783--A

2015-2016 Regular Sessions

I N   S E N A T E

April 15, 2015

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Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.