

STATE OF NEW YORK

10996

IN ASSEMBLY

May 29, 2018

Introduced by M. of A. ASHBY -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law and the insurance law, in relation to allowing patients up to twelve visits with an occupational therapist without a referral from a physician, nurse practitioner or other health care provider

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 7901 of the education law, as amended by chapter
2 460 of the laws of 2011, is amended to read as follows:

3 § 7901. Definition. 1. The practice of the profession of occupational
4 therapy is defined as the functional evaluation of the client, the plan-
5 ning and utilization of a program of purposeful activities, the develop-
6 ment and utilization of a treatment program, and/or consultation with
7 the client, family, caregiver or organization in order to restore,
8 develop or maintain adaptive skills, and/or performance abilities
9 designed to achieve maximal physical, cognitive and mental functioning
10 of the client associated with his or her activities of daily living and
11 daily life tasks. A treatment program designed to restore function,
12 shall be rendered on the prescription or referral of a physician, nurse
13 practitioner or other health care provider acting within his or her
14 scope of practice pursuant to this title, except as provided for in
15 subdivision two of this section. However, nothing contained in this
16 article shall be construed to permit any licensee hereunder to practice
17 medicine or psychology, including psychotherapy or to otherwise expand
18 such licensee's scope of practice beyond what is authorized by this
19 chapter.

20 2. Treatment may be rendered by a licensed occupational therapist for
21 twelve visits without a referral from a physician, nurse practitioner or
22 other health care provider provided that:

23 (a) the licensed occupational therapist has practiced occupational
24 therapy on a full time basis equivalent to not less than three years;
25 and

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

LBD15991-01-8

1 (b) each occupational therapist licensed pursuant to this article
2 shall provide written notice to each patient receiving treatment absent
3 a referral from a physician, nurse practitioner or other health care
4 provider that occupational therapy may not be covered by the patient's
5 health care plan or insurer without such a referral and that such treat-
6 ment may be a covered expense if rendered pursuant to a referral. The
7 occupational therapist shall keep on file with the patient's records a
8 form attesting to the patient's notice of such advice. Such form shall
9 be in duplicate, with one copy to be retained by the patient, signed and
10 dated by both the occupational therapist and the patient in such form as
11 prescribed pursuant to regulations promulgated by the commissioner.

12 § 2. Paragraph 1 of subsection (a) of section 5102 of the insurance
13 law, as amended by chapter 298 of the laws of 2006, is amended to read
14 as follows:

15 (1) All necessary expenses incurred for: (i) medical, hospital
16 (including services rendered in compliance with article forty-one of the
17 public health law, whether or not such services are rendered directly by
18 a hospital), surgical, nursing, dental, ambulance, x-ray, prescription
19 drug and prosthetic services; (ii) psychiatric, physical therapy
20 (provided that treatment is rendered pursuant to a referral) and occupa-
21 tional therapy and rehabilitation (provided that treatment is rendered
22 pursuant to a referral); (iii) any non-medical remedial care and treat-
23 ment rendered in accordance with a religious method of healing recog-
24 nized by the laws of this state; and (iv) any other professional health
25 services; all without limitation as to time, provided that within one
26 year after the date of the accident causing the injury it is ascertainable
27 that further expenses may be incurred as a result of the injury. For
28 the purpose of determining basic economic loss, the expenses incurred
29 under this paragraph shall be in accordance with the limitations of
30 section five thousand one hundred eight of this article.

31 § 3. This act shall take effect on the one hundred twentieth day after
32 it shall have become a law, provided, however, that effective immediately
33 the department of education is authorized to take such steps in
34 advance of such effective date, including the addition, amendment and/or
35 repeal of any rule or regulation as may be necessary, to ensure the
36 timely implementation of the provisions of this act on such effective
37 date.