STATE OF NEW YORK

2539

2017-2018 Regular Sessions

IN ASSEMBLY

January 20, 2017

Introduced by M. of A. GOTTFRIED, DINOWITZ, GALEF, PAULIN, ROSENTHAL, KAVANAGH, COLTON, JAFFEE, ABINANTI, SEPULVEDA -- 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 Assembly, do enact as follows:

Section 1. Subdivision 2 of section 4900 of the public health law, 1 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: б 2. "Clinical peer reviewer" means: (a) [for purposes of title one of this article: 7 8 (i) a physician who possesses a current and valid non-restricted 9 license to practice medicine; or (ii) a health care professional other than a licensed physician who: 10 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 (iii) for purposes of a determination involving substance use disorder 19 20 treatment: (A) a physician who possesses a current and valid non-restricted 21 22 license to practice medicine and who specializes in behavioral health 23 and has experience in the delivery of substance use disorder courses of 24 treatment; or

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

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(B) a health care professional other than a licensed physician who 1 specializes in behavioral health and has experience in the delivery of 2 substance use disorder courses of treatment and, where applicable, 3 possesses a current and valid non-restricted license, certificate or 4 5 registration or, where no provision for a license, certificate or regis-6 tration exists, is credentialed by the national accrediting body appro-7 priate to the profession; and (b) for purposes of title two of this article: 8 9 (i)] a physician who: 10 [(A)] (i) possesses a current and valid non-restricted license to 11 practice medicine under article one hundred thirty-one of the education 12 law; [(B)] (ii) where applicable, is board certified or board eligible in 13 14 the same or similar specialty as the health care provider who typically 15 manages the medical condition or disease or provides the health care 16 service or treatment under appeal; 17 [(-+)] (iii) has been practicing in such area of specialty for a period 18 of at least five years; (iv) for purposes of a determination involving substance use disorder 19 20 treatment, possesses a current and valid non-restricted license to prac-21 tice medicine and specializes in behavioral health and has experience in the delivery of substance use disorder courses of treatment; and 22 $[(\mathbf{D})]$ (v) is knowledgeable about the health care service or treatment 23 24 under **review or** appeal; or 25 [(ii)] (b) a health care professional other than a licensed physician 26 who possesses a current and valid non-restricted license or certif-27 ication under title eight of the education law: 28 [(A)] (i) where applicable, possesses a current and valid non-res-29 tricted license, certificate or registration; 30 [(B)] <u>(ii)</u> 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 $[(\mathbf{D})]$ (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, specializes in behavioral health and has experience in the delivery of 40 substance use disorder courses of treatment and, where applicable, 41 42 possesses a current and valid non-restricted license, certificate or registration or, where no provision for a license, certificate or regis-43 44 tration exists, is credentialed by the national accrediting body appro-45 priate to the profession; and 46 $\left[\frac{(\mathbf{r})}{(\mathbf{r})}\right]$ (vi) where applicable to such health care professional's scope 47 of practice, is clinically supported by a physician who possesses a current and valid non-restricted license to practice medicine. 48 49 [(a)] Nothing [herein] in this subdivision shall be construed to 50 change any statutorily-defined scope of practice. 51 § 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 chapter 41 of the laws of 2014, is amended to read as follows: 54 55 (b) "Clinical peer reviewer" means: 56 (1) [for purposes of title one of this article:

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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
б	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	-
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 <u>under article one hundred thirty-one of the education</u>
29	law;
30	[(ii)] (B) where applicable, is board certified or board eligible in
31	the same or similar specialty as the health care provider who typically
32	manages the medical condition or disease or provides the health care
33	service or treatment under <u>review or</u> appeal;
34	[(iii)] (C) has been practicing in such area of specialty for a period
35	of at least five years;
36	(D) for purposes of a determination involving substance use disorder
37	treatment, possesses a current and valid non-restricted license to prac-
38	tice medicine and who specializes in behavioral health and has experi-
39	ence in the delivery of substance use disorder courses of treatment; and
40	[(iv)] (E) is knowledgeable about the health care service or treatment
41	under <u>review or</u> appeal; or
42	[(B)] (2) a health care professional other than a licensed physician
43	who possesses a current and valid non-restricted license or certif-
44	ication under title eight of the education law:
45	$\left[\frac{(i)}{(i)}\right]$ (A) where applicable, possesses a current and valid non-res-
46	tricted license, certificate or registration;
47	$\left[\frac{(ii)}{(B)}\right]$ where applicable, is credentialed by the national accredit-
48	ing body appropriate to the profession in the same profession and same
49	or similar specialty as the health care provider who typically manages
50	the medical condition or disease or provides the health care service or
51	treatment under <u>review or</u> appeal;
52	[(iii)] (C) has been practicing in such area of specialty for a period
53	of at least five years;
54	[(iv)] (D) for purposes of a determination involving substance use
55	disorder treatment, specializes in behavioral health and has experience
	in the delivery of substance use disorder courses of treatment and,

1	where applicable, possesses a current and valid non-restricted license,
2	certificate or registration or, where no provision for a license,
3	certificate or registration exists, is credentialed by the national
4	accrediting body appropriate to the profession;
5	(E) is knowledgeable about the health care service or treatment under
б	review or appeal; and
7	[(v)] <u>(F)</u> where applicable to such health care professional's scope of
8	practice, is clinically supported by a physician who possesses a current
9	and valid non-restricted license to practice medicine.
10	[(3)] Nothing [herein] in this subdivision shall be construed to
11	change any statutorily-defined scope of practice.
12	§ 3. This act shall take effect on the ninetieth day after it shall
13	have become a law.