

STATE OF NEW YORK

4914

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

Introduced by M. of A. SCHIMMINGER -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation to improper practices relating to staff membership or professional privileges of a physician and board certification

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

1 Section 1. Subdivision 1 of section 2801-b of the public health law,
2 as amended by chapter 605 of the laws of 2008, is amended to read as
3 follows:
4 1. It shall be an improper practice for the governing body of a hospi-
5 tal to refuse to act upon an application for staff membership or profes-
6 sional privileges or to deny or withhold from a physician, podiatrist,
7 optometrist, dentist or licensed midwife staff membership or profes-
8 sional privileges in a hospital, or to exclude or expel a physician,
9 podiatrist, optometrist, dentist or licensed midwife from staff member-
10 ship in a hospital or curtail, terminate or diminish in any way a physi-
11 cian's, podiatrist's, optometrist's, dentist's or licensed midwife's
12 professional privileges in a hospital, without stating the reasons
13 therefor, or if the reasons stated are unrelated to standards of patient
14 care, patient welfare, the objectives of the institution or the charac-
15 ter or competency of the applicant. It shall be an improper practice for
16 a governing body of a hospital to refuse to act upon an application or
17 to deny or to withhold staff membership or professional privileges to a
18 podiatrist based solely upon a practitioner's category of licensure. It
19 shall be an improper practice for a governing body of a hospital to
20 refuse to act upon an application or to deny or to withhold staff
21 membership or professional privileges of a physician solely because such
22 physician is not board-certified.

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

LBD09068-01-7

1 § 2. Paragraph (a) of subdivision 1 of section 4406-d of the public
2 health law, as amended by chapter 237 of the laws of 2009, is amended to
3 read as follows:

4 (a) A health care plan shall, upon request, make available and
5 disclose to health care professionals written application procedures and
6 minimum qualification requirements which a health care professional must
7 meet in order to be considered by the health care plan. The plan shall
8 consult with appropriately qualified health care professionals in devel-
9 oping its qualification requirements. A health care plan shall complete
10 review of the health care professional's application to participate in
11 the in-network portion of the health care plan's network and shall,
12 within ninety days of receiving a health care professional's completed
13 application to participate in the health care plan's network, notify the
14 health care professional as to: (i) whether he or she is credentialed;
15 or (ii) whether additional time is necessary to make a determination in
16 spite of the health care plan's best efforts or because of a failure of
17 a third party to provide necessary documentation, or non-routine or
18 unusual circumstances require additional time for review. In such
19 instances where additional time is necessary because of a lack of neces-
20 sary documentation, a health plan shall make every effort to obtain such
21 information as soon as possible. A health care plan may not refuse to
22 approve an application from a physician to participate in the in-network
23 portion of the health care plan's network solely because such physician
24 is not board-certified.

25 § 3. Paragraph (a) of subdivision 1 of section 4406-d of the public
26 health law, as amended by chapter 425 of the laws of 2016, is amended to
27 read as follows:

28 (a) A health care plan shall, upon request, make available and
29 disclose to health care professionals written application procedures and
30 minimum qualification requirements which a health care professional must
31 meet in order to be considered by the health care plan. The plan shall
32 consult with appropriately qualified health care professionals in devel-
33 oping its qualification requirements. A health care plan shall complete
34 review of the health care professional's application to participate in
35 the in-network portion of the health care plan's network and shall,
36 within sixty days of receiving a health care professional's completed
37 application to participate in the health care plan's network, notify the
38 health care professional as to: (i) whether he or she is credentialed;
39 or (ii) whether additional time is necessary to make a determination
40 because of a failure of a third party to provide necessary documenta-
41 tion. In such instances where additional time is necessary because of a
42 lack of necessary documentation, a health plan shall make every effort
43 to obtain such information as soon as possible and shall make a final
44 determination within twenty-one days of receiving the necessary documen-
45 tation. A health care plan may not refuse to approve an application from
46 a physician to participate in the in-network portion of the health care
47 plan's network solely because such physician is not board-certified.

48 § 4. Paragraph 1 of subsection (a) of section 4803 of the insurance
49 law, as amended by chapter 237 of the laws of 2009, is amended to read
50 as follows:

51 (1) An insurer which offers a managed care product shall, upon
52 request, make available and disclose to health care professionals writ-
53 ten application procedures and minimum qualification requirements which
54 a health care professional must meet in order to be considered by the
55 insurer for participation in the in-network benefits portion of the
56 insurer's network for the managed care product. The insurer shall

1 consult with appropriately qualified health care professionals in devel-
2 oping its qualification requirements for participation in the in-network
3 benefits portion of the insurer's network for the managed care product.
4 An insurer shall complete review of the health care professional's
5 application to participate in the in-network portion of the insurer's
6 network and, within ninety days of receiving a health care profes-
7 sional's completed application to participate in the insurer's network,
8 will notify the health care professional as to: (A) whether he or she is
9 credentialed; or (B) whether additional time is necessary to make a
10 determination in spite of the insurer's best efforts or because of a
11 failure of a third party to provide necessary documentation, or non-
12 routine or unusual circumstances require additional time for review. In
13 such instances where additional time is necessary because of a lack of
14 necessary documentation, an insurer shall make every effort to obtain
15 such information as soon as possible. An insurer may not refuse to
16 approve an application from a physician for participation in the in-net-
17 work portion of the insurer's network solely because such physician is
18 not board-certified.

19 § 5. Paragraph 1 of subsection (a) of section 4803 of the insurance
20 law, as amended by chapter 425 of the laws of 2016, is amended to read
21 as follows:

22 (1) An insurer which offers a managed care product shall, upon
23 request, make available and disclose to health care professionals writ-
24 ten application procedures and minimum qualification requirements which
25 a health care professional must meet in order to be considered by the
26 insurer for participation in the in-network benefits portion of the
27 insurer's network for the managed care product. The insurer shall
28 consult with appropriately qualified health care professionals in devel-
29 oping its qualification requirements for participation in the in-network
30 benefits portion of the insurer's network for the managed care product.
31 An insurer shall complete review of the health care professional's
32 application to participate in the in-network portion of the insurer's
33 network and, within sixty days of receiving a health care professional's
34 completed application to participate in the insurer's network, will
35 notify the health care professional as to: (A) whether he or she is
36 credentialed; or (B) whether additional time is necessary to make a
37 determination because of a failure of a third party to provide necessary
38 documentation. In such instances where additional time is necessary
39 because of a lack of necessary documentation, an insurer shall make
40 every effort to obtain such information as soon as possible and shall
41 make a final determination within twenty-one days of receiving the
42 necessary documentation. An insurer may not refuse to approve an appli-
43 cation from a physician for participation in the in-network portion of
44 the insurer's network solely because such physician is not board-certi-
45 fied.

46 § 6. This act shall take effect immediately; provided, however, that
47 if chapter 425 of the laws of 2016 shall not have taken effect on or
48 before such date then sections three and five of this act shall take
49 effect on the same date and in the same manner as such chapter of the
50 laws of 2016 takes effect.