

# STATE OF NEW YORK

7357

## IN SENATE

January 9, 2018

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed 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.

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

26 (a) A health care plan shall, upon request, make available and  
27 disclose to health care professionals written application procedures and

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

LBD09068-05-8

1 minimum qualification requirements which a health care professional must  
2 meet in order to be considered by the health care plan. The plan shall  
3 consult with appropriately qualified health care professionals in devel-  
4 oping its qualification requirements. A health care plan shall complete  
5 review of the health care professional's application to participate in  
6 the in-network portion of the health care plan's network and shall,  
7 within sixty days of receiving a health care professional's completed  
8 application to participate in the health care plan's network, notify the  
9 health care professional as to: (i) whether he or she is credentialed;  
10 or (ii) whether additional time is necessary to make a determination  
11 because of a failure of a third party to provide necessary documenta-  
12 tion. In such instances where additional time is necessary because of a  
13 lack of necessary documentation, a health plan shall make every effort  
14 to obtain such information as soon as possible and shall make a final  
15 determination within twenty-one days of receiving the necessary documen-  
16 tation. A health care plan may not refuse to approve an application from  
17 a physician to participate in the in-network portion of the health care  
18 plan's network solely because such physician is not board-certified.

19 § 3. 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 § 4. This act shall take effect immediately.