8844

## IN SENATE

July 29, 2020

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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 by chapter 41 of the laws of 2014 and
4	subparagraph (iii) as amended and subparagraph (iv) of paragraph (a) as
5	added by section 42 of subpart A of part BB of chapter 57 of the laws of
б	2019, is amended to read as follows:
7	2. "Clinical peer reviewer" means:
8	(a) [ <del>for purposes of title one of this article:</del>
9	(i) a physician who possesses a current and valid non-restricted
10	license to practice medicine; or
11	(ii) a health care professional other than a licensed physician who:
12	(A) where applicable, possesses a current and valid non-restricted
13	license, certificate or registration or, where no provision for a
14	license, certificate or registration exists, is credentialed by the
15	national accrediting body appropriate to the profession; and
16	(B) is in the same profession and same or similar specialty as the
17	health care provider who typically manages the medical condition or
18	disease or provides the health care service or treatment under review;
19	<del>or</del>
20	(iii) for purposes of a determination involving substance use disorder
21	treatment:
22	(A) a physician who possesses a current and valid non-restricted
23	license to practice medicine and who specializes in behavioral health
24	and has experience in the delivery of substance use disorder courses of
25	treatment; or
26	(B) a health care professional other than a licensed physician who
27	specializes in behavioral health and has experience in the delivery of
28	substance use disorder courses of treatment and, where applicable,
	EXPLANATIONMatter in <i>italics</i> (underscored) is new; matter in brackets

[-] is old law to be omitted.

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1	possesses a current and valid non-restricted license, certificate or
2	registration or, where no provision for a license, certificate or regis-
3	tration exists, is credentialed by the national accrediting body appro-
4	priate to the profession; or
5	(iv) for purposes of a determination involving treatment for a mental
6	health condition:
7	(A) a physician who possesses a current and valid non-restricted
8	license to practice medicine and who specializes in behavioral health
9	and has experience in the delivery of mental health courses of treat-
10	ment; or
11	(B) a health care professional other than a licensed physician who
12	specializes in behavioral health and has experience in the delivery of a
13	mental health courses of treatment and, where applicable, possesses a
14	current and valid non-restricted license, certificate, or registration
15	or, where no provision for a license, certificate or registration
16	exists, is credentialed by the national accrediting body appropriate to
17	the profession; and
18	(b) for purposes of title two of this article:
19	(i)] a physician who:
20	[(A)] (i) possesses a current and valid non-restricted license to
20 21	practice medicine <u>under article one hundred thirty-one of the education</u>
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22	<u>law;</u>
23	[ <del>(B)</del> ] <u>(ii)</u> where applicable, is board certified or board eligible in
24	the same or similar specialty as the health care provider who typically
25	manages the medical condition or disease or provides the health care
26	service or treatment under <u>review or</u> appeal;
27	[ <del>(C)</del> ] <u>(iii)</u> has been practicing in such area of specialty for a period
28	of at least five years; [ <del>and</del> ]
29	(iv) for purposes of a determination involving substance use disorder
30	treatment, possesses a current and valid non-restricted license to prac-
31	tice medicine and specializes in behavioral health and has experience in
32	the delivery of substance use disorder courses of treatment;
33	(v) for purposes of a determination involving treatment for a mental
34	health condition, possesses a current and valid non-restricted license
35	to practice medicine and who specializes in behavioral health and has
36	experience in the delivery of mental health courses of treatment; and
37	$\left[\frac{\mathbf{P}}{\mathbf{P}}\right]$ (vi) is knowledgeable about the health care service or treatment
38	under <u>review or</u> appeal; or
39	[ <del>(ii)</del> ] (b) a health care professional other than a licensed physician
40	who possesses a current and valid non-restricted license or certif-
41	ication under title eight of the education law:
42	[(A)] (i) where applicable, possesses a current and valid non-res-
43	tricted license, certificate or registration;
44	[(B)] (ii) where applicable, is credentialed by the national accredit-
45	ing body appropriate to the profession in the same profession and same
46	or similar specialty as the health care provider who typically manages
47	the medical condition or disease or provides the health care service or
48	
	treatment under <u>review or</u> appeal;
49 50	[(C)] (iii) has been practicing in such area of specialty for a period
50	of at least five years;
51	$\left[\frac{(\mathbf{p})}{(\mathbf{iv})}\right]$ is knowledgeable about the health care service or treatment
52	under <u>review or</u> appeal; [ <del>and</del> ]
53	(v) for purposes of a determination involving substance use disorder,
54	specializes in behavioral health and has experience in the delivery of
55	substance use disorder courses of treatment and, where applicable,
56	possesses a current and valid non-restricted license, certificate or

1	registration or, where no provision for a license, certificate or regis-
2	tration exists, is credentialed by the national accrediting body appro-
3	priate to the profession;
4	(vi) for purposes of a determination involving treatment for a mental
5	health condition, specializes in behavioral health and has experience in
6	the delivery of mental health courses of treatment and, where applica-
7	ble, possesses a current and valid non-restricted license, certificate,
8	or registration or, where no provision for a license, certificate or
9	registration exists, is credentialed by the national accrediting body
10	appropriate to the profession; and
11	[ <del>(E)</del> ] <u>(vii)</u> where applicable to such health care professional's scope
12	of practice, is clinically supported by a physician who possesses a
13	current and valid non-restricted license to practice medicine.
14	[ <del>(a)</del> ] Nothing [herein] in this subdivision shall be construed to
15	change any statutorily-defined scope of practice.
16	§ 2. Subsection (b) of section 4900 of the insurance law, as amended
17	by chapter 586 of the laws of 1998, item (ii) of subparagraph (B) of
18	paragraph 1 as amended by chapter 41 of the laws of 2014, subparagraph
19	(C) as amended and subparagraph (D) of paragraph 1 as added by section
20	36 of subpart A of part BB of chapter 57 of the laws of 2019, is amended
21	to read as follows:
22	(b) "Clinical peer reviewer" means:
23	(1) [for purposes of title one of this article:
24	(A) a physician who possesses a current and valid non-restricted
25	license to practice medicine; or
26	(B) a health care professional other than a licensed physician who:
27	(i) where applicable, possesses a current and valid non-restricted
28	license, certificate or registration or, where no provision for a
29	license, certificate or registration exists, is credentialed by the
30	national accrediting body appropriate to the profession; and
31	(ii) is in the same profession and same or similar specialty as the
32	health care provider who typically manages the medical condition or
33	disease or provides the health care service or treatment under review;
34 35	Or (C) for purposes of a determination involving substance use disorder
35 36	treatment:
30 37	(i) a physician who possesses a current and valid non-restricted
38	license to practice medicine and who specializes in behavioral health
39	and has experience in the delivery of substance use disorder courses of
40	treatment; or
41	(ii) a health care professional other than a licensed physician who
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 credentialed by the national accrediting body appro-
47	priate to the profession; or
48	(D) for purposes of a determination involving treatment for a mental
49	health condition:
50	(i) a physician who possesses a current and valid non-restricted
51	license to practice medicine and who specializes in behavioral health
52	and has experience in the delivery of mental health courses of treat-
53	ment; or
54	(ii) a health care professional other than a licensed physician who
55	specializes in behavioral health and has experience in the delivery of

56 mental health courses of treatment and, where applicable, possesses a

current and valid non-restricted license, certificate, or registration 1 2 or, where no provision for a license, certificate or registration exists, is credentialed by the national accrediting body appropriate to 3 4 the profession; and 5 (2) for purposes of title two of this article: б (A)] a physician who: 7 [(i)] (A) possesses a current and valid non-restricted license to 8 practice medicine under article one hundred thirty-one of the education 9 <u>law</u>; 10 [(ii)] (B) where applicable, is board certified or board eligible in 11 the same or similar specialty as the health care provider who typically manages the medical condition or disease or provides the health care 12 13 service or treatment under **review or** appeal; 14 [(iii)] (C) has been practicing in such area of specialty for a period 15 of at least five years; [and] 16 (D) for purposes of a determination involving substance use disorder treatment, possesses a current and valid non-restricted license to prac-17 tice medicine and who specializes in behavioral health and has experi-18 19 ence in the delivery of substance use disorder courses of treatment; 20 (E) for purposes of a determination involving treatment for a mental 21 health condition, possesses a current and valid non-restricted license to practice medicine and who specializes in behavioral health and has 22 experience in the delivery of mental health courses of treatment; and 23  $\left[\frac{1}{1}\right]$  is knowledgeable about the health care service or treatment 24 25 under **review or** appeal; or 26 [(B)] (2) a health care professional other than a licensed physician 27 who possesses a current and valid non-restricted license or certification under title eight of the education law: 28 29  $\left[\frac{1}{2}\right]$  (A) where applicable, possesses a current and valid non-res-30 tricted license, certificate or registration; 31 [(ii)] (B) where applicable, is credentialed by the national accredit-32 ing body appropriate to the profession in the same profession and same 33 similar specialty as the health care provider who typically manages or 34 the medical condition or disease or provides the health care service or 35 treatment under **review or** appeal; [(iii)] (C) has been practicing in such area of specialty for a period 36 37 of at least five years; [(iv)] (D) for purposes of a determination involving substance use 38 disorder treatment, specializes in behavioral health and has experience 39 in the delivery of substance use disorder courses of treatment and, 40 where applicable, possesses a current and valid non-restricted license, 41 42 certificate or registration or, where no provision for a license, 43 certificate or registration exists, is credentialed by the national 44 accrediting body appropriate to the profession; 45 (E) for purposes of a determination involving treatment for a mental 46 health condition, specializes in behavioral health and has experience in 47 the delivery of mental health courses of treatment and, where applicable, possesses a current and valid non-restricted license, certificate, 48 or registration or, where no provision for a license, certificate or 49 registration exists, is credentialed by the national accrediting body 50 51 appropriate to the profession; 52 (F) is knowledgeable about the health care service or treatment under 53 **review or** appeal; and 54  $[(\mathbf{v})]$  (G) where applicable to such health care professional's scope of

55 practice, is clinically supported by a physician who possesses a current 56 and valid non-restricted license to practice medicine.

1 [<del>(3)</del>] Nothing [herein] in this subdivision shall be construed to
2 change any statutorily-defined scope of practice.

3 § 3. This act shall take effect on the same date and in the same 4 manner as subpart A of part BB of chapter 57 of the laws of 2019, or on 5 the ninetieth day after it shall have become a law, whichever is later.