

# STATE OF NEW YORK

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1179

2019-2020 Regular Sessions

## IN ASSEMBLY

January 14, 2019

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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:

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

LBD02032-01-9

1 (a) the licensed occupational therapist has practiced occupational  
2 therapy on a full time basis equivalent to not less than three years;  
3 and

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

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

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

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