

# STATE OF NEW YORK

1171--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 7, 2021

Introduced by M. of A. BRONSON, CLARK, LUNSFORD, MEEKS, WALLACE, BUTTENSCHON, ROZIC, SANTABARBARA, LUPARDO, HUNTER, GUNTHER, STECK, STIRPE, JONES, MAGNARELLI, FAHY, McMAHON, BARRETT, WOERNER, WEPRIN, GOTTFRIED, CRUZ, CARROLL -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to health insurance coverage of outpatient care provided by a mental health practitioner and a clinical social worker; and to repeal certain provisions of such law relating thereto

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

Section 1. Items (i) and (ii) of subparagraph (A) of paragraph 35 of subsection (i) of section 3216 of the insurance law, item (i) as amended by section 12 of part AA of chapter 57 of the laws of 2021 and item (ii) as added by section 8 of subpart A of part BB of chapter 57 of the laws of 2019, are amended to read as follows:

(i) where the policy provides coverage for inpatient hospital care, such policy shall include benefits for inpatient care in a hospital as defined by subdivision ten of section 1.03 of the mental hygiene law and benefits for outpatient care provided in a facility issued an operating certificate by the commissioner of mental health pursuant to the provisions of article thirty-one of the mental hygiene law, or in a facility operated by the office of mental health, or in a crisis stabilization center licensed pursuant to section 36.01 of the mental hygiene law, or, for care provided in other states, to similarly licensed or certified hospitals or facilities; and

(ii) where the policy provides coverage for physician services, such policy shall include benefits for outpatient care provided by a psychiatrist or psychologist licensed to practice in this state, a licensed clinical social worker [~~who meets the requirements of subparagraph (D)~~]

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

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~~of paragraph four of subsection (1) of section three thousand two hundred twenty one of this article,~~ within the lawful scope of his or her practice, who is licensed pursuant to article one hundred fifty-four of the education law, a mental health counselor, marriage and family therapist, creative arts therapist or psychoanalyst licensed pursuant to article one hundred sixty-three of the education law, a nurse practitioner licensed to practice in this state, or a professional corporation or university faculty practice corporation thereof. Nothing herein shall be construed to modify or expand the scope of practice of a mental health counselor, marriage and family therapist, creative arts therapist or psychoanalyst licensed pursuant to article one hundred sixty-three of the education law. Further, nothing herein shall be construed to create a new mandated health benefit.

§ 2. Subparagraph (A) of paragraph 4 of subsection (1) of section 3221 of the insurance law, as amended by section 11 of subpart A of part BB of chapter 57 of the laws of 2019, is amended to read as follows:

(A) Every insurer delivering a group policy or issuing a group policy for delivery, in this state, that provides reimbursement for psychiatric or psychological services or for the diagnosis and treatment of mental health conditions, however defined in such policy, by physicians, psychiatrists or psychologists, shall ~~[make available and if requested by the policyholder]~~ provide the same coverage to insureds for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to article one hundred fifty-four of the education law~~[-. Written notice of the availability of such coverage shall be delivered to the policyholder prior to inception of such group policy and annually thereafter, except that this notice shall not be required where a policy covers two hundred or more employees or where the benefit structure was the subject of collective bargaining affecting persons who are employed in more than one state.]~~ and mental health counselors, marriage and family therapists, creative arts therapists and psychoanalysts licensed pursuant to article one hundred sixty-three of the education law, within the lawful scope of his or her practice. Nothing herein shall be construed to modify or expand the scope of practice of a mental health counselor, marriage and family therapist, creative arts therapist or psychoanalyst licensed pursuant to article one hundred sixty-three of the education law. Further, nothing herein shall be construed to create a new mandated health benefit.

§ 3. Subparagraph (D) of paragraph 4 of subsection (1) of section 3221 of the insurance law is REPEALED.

§ 4. Item (ii) of subparagraph (A) of paragraph 5 of subsection (1) of section 3221 of the insurance law, as amended by section 13 of subpart A of part BB of chapter 57 of the laws of 2019, is amended to read as follows:

(ii) where the policy provides coverage for physician services, it shall include benefits for outpatient care provided by a psychiatrist or psychologist licensed to practice in this state, or a mental health counselor, marriage and family therapist, creative arts therapist or psychoanalyst licensed pursuant to article one hundred sixty-three of the education law, or a licensed clinical social worker ~~[who meets the requirements of subparagraph (D) of paragraph four of this subsection]~~ within the lawful scope of his or her practice, who is licensed pursuant to article one hundred fifty-four of the education law, a nurse practitioner licensed to practice in this state, or a professional corporation or university faculty practice corporation thereof. Nothing herein shall

1 be construed to modify or expand the scope of practice of a mental  
2 health counselor, marriage and family therapist, creative arts therapist  
3 or psychoanalyst licensed pursuant to article one hundred sixty-three of  
4 the education law. Further, nothing herein shall be construed to create  
5 a new mandated health benefit.

6 § 5. Paragraph 2 of subsection (g) of section 4303 of the insurance  
7 law, as added by section 22 of subpart A of part BB of chapter 57 of the  
8 laws of 2019, is amended to read as follows:

9 (2) where the contract provides coverage for physician services such  
10 contract shall provide benefits for outpatient care provided by a  
11 psychiatrist or psychologist licensed to practice in this state, or a  
12 mental health counselor, marriage and family therapist, creative arts  
13 therapist or psychoanalyst licensed pursuant to article one hundred  
14 sixty-three of the education law, or a licensed clinical social worker  
15 ~~[who meets the requirements of subsection (n) of this section]~~ within  
16 the lawful scope of his or her practice, who is licensed pursuant to  
17 article one hundred fifty-four of the education law, a nurse practition-  
18 er licensed to practice ~~[on]~~ in this state, or professional corporation  
19 or university faculty practice corporation thereof. Nothing herein shall  
20 be construed to modify or expand the scope of practice of a mental  
21 health counselor, marriage and family therapist, creative arts therapist  
22 or psychoanalyst licensed pursuant to article one hundred sixty-three of  
23 the education law. Further, nothing herein shall be construed to create  
24 a new mandated health benefit.

25 § 6. Subsection (i) of section 4303 of the insurance law is REPEALED.

26 § 7. Subsection (n) of section 4303 of the insurance law, as amended  
27 by section 30 of subpart A of part BB of chapter 57 of the laws of 2019,  
28 is amended to read as follows:

29 (n) ~~[In addition to the requirements of subsection (i) of this~~  
30 ~~section, every]~~ Every health service or medical expense indemnity corpo-  
31 ration issuing a group contract pursuant to this section or a group  
32 remittance contract for delivery in this state which contract provides  
33 reimbursement to subscribers or physicians, psychiatrists or psychol-  
34 ogists for psychiatric or psychological services or for the diagnosis  
35 and treatment of mental health conditions, however defined in such  
36 contract, must provide the same coverage to persons covered under the  
37 group contract for such services when performed by a licensed clinical  
38 social worker, within the lawful scope of his or her practice, who is  
39 licensed pursuant to ~~[subdivision two of section seven thousand seven~~  
40 ~~hundred four of the education law and in addition shall have either (i)~~  
41 ~~three or more additional years experience in psychotherapy, which for~~  
42 ~~the purposes of this subsection shall mean the use of verbal methods in~~  
43 ~~interpersonal relationships with the intent of assisting a person or~~  
44 ~~persons to modify attitudes and behavior which are intellectually,~~  
45 ~~socially or emotionally maladaptive, under supervision, satisfactory to~~  
46 ~~the state board for social work, in a facility, licensed or incorporated~~  
47 ~~by an appropriate governmental department, providing services for diag-~~  
48 ~~nosis or treatment of mental health conditions, or (ii) three or more~~  
49 ~~additional years experience in psychotherapy under the supervision,~~  
50 ~~satisfactory to the state board for social work, of a psychiatrist, a~~  
51 ~~licensed and registered psychologist or a licensed clinical social work-~~  
52 ~~er qualified for reimbursement pursuant to subsection (i) of this~~  
53 ~~section, or (iii) a combination of the experience specified in para-~~  
54 ~~graphs (i) and (ii) totaling three years, satisfactory to the state~~  
55 ~~board for social work.]~~ article one hundred fifty-four of the education  
56 law and a mental health counselor, marriage and family therapist, crea-

1 tive arts therapist or psychoanalyst licensed pursuant to article one  
2 hundred sixty-three of the education law. Nothing herein shall be  
3 construed to modify or expand the scope of practice of a mental health  
4 counselor, marriage and family therapist, creative arts therapist or  
5 psychoanalyst licensed pursuant to article one hundred sixty-three of  
6 the education law. Further, nothing herein shall be construed to create  
7 a new mandated health benefit. The state board for social work shall  
8 maintain a list of all licensed clinical social workers qualified for  
9 reimbursement under this subsection. The state board for mental health  
10 practitioners shall maintain a list of all licensed mental health coun-  
11 selors, marriage and family therapists, creative arts therapists or  
12 psychoanalysts qualified for reimbursement under this subsection.

13 § 8. This act shall take effect on the first of January next succeed-  
14 ing the date upon which it shall have become a law; provided, however,  
15 that the amendments made to item (i) of subparagraph (A) of paragraph 35  
16 of subsection (i) of section 3216 of the insurance law made by section  
17 one of this act shall take effect on the same date and in the same  
18 manner as part AA of chapter 57 of the laws of 2021 takes effect; and  
19 provided further, shall apply to policies and contracts issued, renewed,  
20 modified, altered or amended on or after such effective date.