

# STATE OF NEW YORK

7704--A

Cal. No. 270

2021-2022 Regular Sessions

## IN ASSEMBLY

May 20, 2021

Introduced by M. of A. FERNANDEZ, ABBATE, DAVILA -- read once and referred to the Committee on Insurance -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the insurance law, in relation to providing behavioral health parity (Part A); and to amend the insurance law, in relation to the authorization for certain drugs for the detoxification or maintenance of a substance use disorder (Part B)

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

1 Section 1. This act enacts into law components of legislation which  
2 are necessary to effectuate provisions relating to mental health and  
3 substance use disorder parity. Each component is wholly contained with-  
4 in a Part identified as Parts A through B. The effective date for each  
5 particular provision contained within such Part is set forth in the last  
6 section of such Part. Any provision in any section contained within a  
7 Part, including the effective date of the Part, which makes reference  
8 to a section "of this act", when used in connection with that partic-  
9 ular component, shall be deemed to mean and refer to the correspond-  
10 ing section of the Part in which it is found. Section three of this act  
11 sets forth the general effective date of this act.

12 PART A

13 Section 1. Subparagraph (D) of paragraph 30 of subsection (i) of  
14 section 3216 of the insurance law, as amended by section 5 of subpart A  
15 of part BB of chapter 57 of the laws of 2019, is amended to read as  
16 follows:

17 (D) This subparagraph shall apply to facilities in this state that are  
18 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
19 ~~and substance abuse services~~] addiction services and supports that are

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

LBD09970-03-2

1 participating in the insurer's provider network. Coverage provided under  
2 this paragraph shall not be subject to preauthorization. Coverage  
3 provided under this paragraph shall also not be subject to concurrent  
4 utilization review during the first twenty-eight days of the inpatient  
5 admission provided that the facility notifies the insurer of both the  
6 admission and the initial treatment plan within two business days of the  
7 admission on a standardized form developed by the department in consul-  
8 tation with the department of health and the office of addiction  
9 services and supports. The facility shall perform daily clinical review  
10 of the patient [~~, including periodic~~] and consult periodically with the  
11 insurer regarding the patient's progress, course of treatment, and  
12 discharge plan. Periodic consultation with the insurer [~~at or just prior~~  
13 ~~to~~] shall occur no later than the fourteenth day of treatment [~~to ensure~~  
14 ~~that the facility is using the evidence-based and peer reviewed clinical~~  
15 ~~review tool utilized by the insurer which is designated by the office of~~  
16 ~~alcoholism and substance abuse services and appropriate to the age of~~  
17 ~~the patient, to ensure that the inpatient treatment is medically neces-~~  
18 ~~sary for the patient~~]. Prior to discharge, the facility shall provide  
19 the patient and the insurer with a written discharge plan which shall  
20 describe arrangements for additional services needed following discharge  
21 from the inpatient facility as determined using the evidence-based and  
22 peer-reviewed clinical review tool utilized by the insurer which is  
23 designated by the office of [~~alcoholism and substance abuse services~~]  
24 addiction services and supports. Prior to discharge, the facility shall  
25 indicate to the insurer whether services included in the discharge plan  
26 are secured or determined to be reasonably available. [~~Any~~] Insurers  
27 shall actively participate in facility-initiated periodic consultations  
28 prior to the patient's discharge and except where the insurer fails to  
29 do so, any utilization review of treatment provided under this subpara-  
30 graph may include a review of all services provided during such inpa-  
31 tient treatment, including all services provided during the first twen-  
32 ty-eight days of such inpatient treatment. Provided, however, the  
33 insurer shall be required to process claims for the provision of such  
34 services within the timeframes established in subsection (a) of section  
35 three thousand two hundred twenty-four-a of this article and shall only  
36 deny coverage for any portion of the initial twenty-eight day inpatient  
37 treatment on the basis that such treatment was not medically necessary  
38 if such inpatient treatment was contrary to the evidence-based and peer  
39 reviewed clinical review tool utilized by the insurer which is desig-  
40 nated by the office of [~~alcoholism and substance abuse services~~]  
41 addiction services and supports. An insured shall not have any financial  
42 obligation to the facility for any treatment under this subparagraph  
43 other than any copayment, coinsurance, or deductible otherwise required  
44 under the policy.

45 § 2. Subparagraph (E) of paragraph 31 of subsection (i) of section  
46 3216 of the insurance law, as amended by section 6 of subpart A of part  
47 BB of chapter 57 of the laws of 2019, is amended to read as follows:

48 (E) This subparagraph shall apply to facilities in this state that are  
49 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
50 ~~and substance abuse services~~] addiction services and supports for the  
51 provision of outpatient, intensive outpatient, outpatient rehabilitation  
52 and opioid treatment that are participating in the insurer's provider  
53 network. Coverage provided under this paragraph shall not be subject to  
54 preauthorization. Coverage provided under this paragraph shall not be  
55 subject to concurrent review for the first four weeks of continuous  
56 treatment, not to exceed twenty-eight visits, provided the facility

1 notifies the insurer of both the start of treatment and the initial  
2 treatment plan within two business days on a standardized form developed  
3 by the department in consultation with the department of health and the  
4 office of addiction services and supports. The facility shall perform  
5 clinical assessment of the patient at each visit[, ~~including periodic~~  
6 ~~and consult periodically with the insurer regarding the patient's~~  
7 ~~progress, course of treatment, and discharge plan. Periodic~~ consultation  
8 with the insurer [~~at or just prior to~~] shall occur no later than the  
9 fourteenth day of treatment [~~to ensure that the facility is using the~~  
10 ~~evidence-based and peer reviewed clinical review tool utilized by the~~  
11 ~~insurer which is designated by the office of alcoholism and substance~~  
12 ~~abuse services and appropriate to the age of the patient, to ensure that~~  
13 ~~the outpatient treatment is medically necessary for the patient~~]. [~~Any~~  
14 Insurers shall actively participate in facility-initiated periodic  
15 consultations prior to the patient's discharge and except where the  
16 insurer fails to do so, any utilization review of the treatment provided  
17 under this subparagraph may include a review of all services provided  
18 during such outpatient treatment, including all services provided during  
19 the first four weeks of continuous treatment, not to exceed twenty-eight  
20 visits, of such outpatient treatment. Provided, however, the insurer  
21 shall only deny coverage for any portion of the initial four weeks of  
22 continuous treatment, not to exceed twenty-eight visits, for outpatient  
23 treatment on the basis that such treatment was not medically necessary  
24 if such outpatient treatment was contrary to the evidence-based and peer  
25 reviewed clinical review tool utilized by the insurer which is desig-  
26 nated by the office of [~~alcoholism and substance abuse services~~  
27 addiction services and supports]. An insured shall not have any finan-  
28 cial obligation to the facility for any treatment under this subpara-  
29 graph other than any copayment, coinsurance, or deductible otherwise  
30 required under the policy.

31 § 3. Subparagraph (G) of paragraph 35 of subsection (i) of section  
32 3216 of the insurance law, as added by section 8 of subpart A of part BB  
33 of chapter 57 of the laws of 2019, is amended to read as follows:

34 (G) This subparagraph shall apply to hospitals in this state that are  
35 licensed, certified or otherwise authorized by the office of mental  
36 health that are participating in the insurer's provider network. Where  
37 the policy provides coverage for inpatient hospital care, benefits for  
38 inpatient hospital care in a hospital as defined by subdivision ten of  
39 section 1.03 of the mental hygiene law [~~provided to individuals who have~~  
40 ~~not attained the age of eighteen~~] shall not be subject to preautho-  
41 rization. Coverage provided under this subparagraph shall also not be  
42 subject to concurrent utilization review during the first fourteen days  
43 of the inpatient admission, provided the facility notifies the insurer  
44 of both the admission and the initial treatment plan within two business  
45 days of the admission on a standardized form developed by the department  
46 in consultation with the department of health and the office of mental  
47 health, performs daily clinical review of the patient, and [~~participates~~  
48 ~~in periodic consultation with the insurer to ensure that the facility is~~  
49 ~~using the evidence-based and peer reviewed clinical review criteria~~  
50 ~~utilized by the insurer which is approved by the office of mental health~~  
51 ~~and appropriate to the age of the patient, to ensure that the inpatient~~  
52 ~~care is medically necessary for the patient~~] consults periodically with  
53 the insurer regarding the patient's progress, course of treatment, and  
54 discharge plan. [~~All~~] Insurers shall actively participate in facility-  
55 initiated periodic consultations prior to the patient's discharge and  
56 except where the insurer fails to do so, all treatment provided under

1 this subparagraph may be reviewed retrospectively. Where care is denied  
2 retrospectively, an insured shall not have any financial obligation to  
3 the facility for any treatment under this subparagraph other than any  
4 copayment, coinsurance, or deductible otherwise required under the poli-  
5 cy.

6 § 4. Subparagraph (G) of paragraph 5 of subsection (1) of section 3221  
7 of the insurance law, as added by section 14 of subpart A of part BB of  
8 chapter 57 of the laws of 2019, is amended to read as follows:

9 (G) This subparagraph shall apply to hospitals in this state that are  
10 licensed, certified or otherwise authorized by the office of mental  
11 health that are participating in the insurer's provider network. Where  
12 the policy provides coverage for inpatient hospital care, benefits for  
13 inpatient hospital care in a hospital as defined by subdivision ten of  
14 section 1.03 of the mental hygiene law [~~provided to individuals who have~~  
15 ~~not attained the age of eighteen~~] shall not be subject to preauthori-  
16 zation. Coverage provided under this subparagraph shall also not be  
17 subject to concurrent utilization review during the first fourteen days  
18 of the inpatient admission, provided the facility notifies the insurer  
19 of both the admission and the initial treatment plan within two business  
20 days of the admission on a standardized form developed by the department  
21 in consultation with the department of health and the office of mental  
22 health, performs daily clinical review of the patient, and [~~participates~~  
23 ~~in periodic consultation with the insurer to ensure that the facility is~~  
24 ~~using the evidence-based and peer reviewed clinical review criteria~~  
25 ~~utilized by the insurer which is approved by the office of mental health~~  
26 ~~and appropriate to the age of the patient, to ensure that the inpatient~~  
27 ~~care is medically necessary for the patient~~] consults periodically with  
28 the insurer regarding the patient's progress, course of treatment, and  
29 discharge plan. [~~All~~] Insurers shall actively participate in facility-  
30 initiated periodic consultations prior to the patient's discharge and  
31 except where the insurer fails to do so, all treatment provided under  
32 this subparagraph may be reviewed retrospectively. Where care is denied  
33 retrospectively, an insured shall not have any financial obligation to  
34 the facility for any treatment under this subparagraph other than any  
35 copayment, coinsurance, or deductible otherwise required under the poli-  
36 cy.

37 § 5. Subparagraph (D) of paragraph 6 of subsection (1) of section 3221  
38 of the insurance law, as amended by section 15 of subpart A of part BB  
39 of chapter 57 of the laws of 2019, is amended to read as follows:

40 (D) This subparagraph shall apply to facilities in this state that are  
41 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
42 ~~and substance abuse services~~] addiction services and supports that are  
43 participating in the insurer's provider network. Coverage provided under  
44 this paragraph shall not be subject to preauthorization. Coverage  
45 provided under this paragraph shall also not be subject to concurrent  
46 utilization review during the first twenty-eight days of the inpatient  
47 admission provided that the facility notifies the insurer of both the  
48 admission and the initial treatment plan within two business days of the  
49 admission on a standardized form developed by the department in consul-  
50 tation with the department of health and the office of addiction  
51 services and supports. The facility shall perform daily clinical review  
52 of the patient [~~, including periodic~~] and consult periodically with the  
53 insurer regarding the patient's progress, course of treatment, and  
54 discharge plan. Periodic consultation with the insurer [~~at or just prior~~  
55 ~~to~~] shall occur no later than the fourteenth day of treatment [~~to ensure~~  
56 ~~that the facility is using the evidence-based and peer reviewed clinical~~

1 ~~review tool utilized by the insurer which is designated by the office of~~  
2 ~~alcoholism and substance abuse services and appropriate to the age of~~  
3 ~~the patient, to ensure that the inpatient treatment is medically neces-~~  
4 ~~sary for the patient].~~ Prior to discharge, the facility shall provide  
5 the patient and the insurer with a written discharge plan which shall  
6 describe arrangements for additional services needed following discharge  
7 from the inpatient facility as determined using the evidence-based and  
8 peer-reviewed clinical review tool utilized by the insurer which is  
9 designated by the office of [~~alcoholism and substance abuse services~~]  
10 addiction services and supports. Prior to discharge, the facility shall  
11 indicate to the insurer whether services included in the discharge plan  
12 are secured or determined to be reasonably available. [~~Any~~] Insurers  
13 shall actively participate in facility-initiated periodic consultations  
14 prior to the patient's discharge and except where the insurer fails to  
15 do so, any utilization review of treatment provided under this subpara-  
16 graph may include a review of all services provided during such inpa-  
17 tient treatment, including all services provided during the first twen-  
18 ty-eight days of such inpatient treatment. Provided, however, the  
19 insurer shall be required to process claims for the provision of such  
20 services within the timeframes established in subsection (a) of section  
21 three thousand two hundred twenty-four-a of this article and shall only  
22 deny coverage for any portion of the initial twenty-eight day inpatient  
23 treatment on the basis that such treatment was not medically necessary  
24 if such inpatient treatment was contrary to the evidence-based and peer  
25 reviewed clinical review tool utilized by the insurer which is desig-  
26 nated by the office of [~~alcoholism and substance abuse services~~]  
27 addiction services and supports. An insured shall not have any financial  
28 obligation to the facility for any treatment under this subparagraph  
29 other than any copayment, coinsurance, or deductible otherwise required  
30 under the policy.

31 § 6. Subparagraph (E) of paragraph 7 of subsection (1) of section 3221  
32 of the insurance law, as amended by section 17 of subpart A of part BB  
33 of chapter 57 of the laws of 2019, is amended to read as follows:

34 (E) This subparagraph shall apply to facilities in this state that are  
35 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
36 ~~and substance abuse services~~] addiction services and supports for the  
37 provision of outpatient, intensive outpatient, outpatient rehabilitation  
38 and opioid treatment that are participating in the insurer's provider  
39 network. Coverage provided under this paragraph shall not be subject to  
40 preauthorization. Coverage provided under this paragraph shall not be  
41 subject to concurrent review for the first four weeks of continuous  
42 treatment, not to exceed twenty-eight visits, provided the facility  
43 notifies the insurer of both the start of treatment and the initial  
44 treatment plan within two business days on a standardized form developed  
45 by the department in consultation with the department of health and the  
46 office of addiction services and supports. The facility shall perform  
47 clinical assessment of the patient at each visit[~~, including periodic~~]  
48 and consult periodically with the insurer regarding the patient's  
49 progress, course of treatment, and discharge plan. Periodic consultation  
50 with the insurer [~~at or just prior to~~] shall occur no later than the  
51 fourteenth day of treatment [~~to ensure that the facility is using the~~  
52 ~~evidence-based and peer-reviewed clinical review tool utilized by the~~  
53 ~~insurer which is designated by the office of alcoholism and substance~~  
54 ~~abuse services and appropriate to the age of the patient, to ensure that~~  
55 ~~the outpatient treatment is medically necessary for the patient~~]. [~~Any~~]  
56 Insurers shall actively participate in facility-initiated periodic

1 consultations prior to the patient's discharge and except where the  
2 insurer fails to do so, any utilization review of the treatment provided  
3 under this subparagraph may include a review of all services provided  
4 during such outpatient treatment, including all services provided during  
5 the first four weeks of continuous treatment, not to exceed twenty-eight  
6 visits, of such outpatient treatment. Provided, however, the insurer  
7 shall only deny coverage for any portion of the initial four weeks of  
8 continuous treatment, not to exceed twenty-eight visits, for outpatient  
9 treatment on the basis that such treatment was not medically necessary  
10 if such outpatient treatment was contrary to the evidence-based and peer  
11 reviewed clinical review tool utilized by the insurer which is desig-  
12 nated by the office of [~~alcoholism and substance abuse services~~]  
13 addiction services and supports. An insured shall not have any finan-  
14 cial obligation to the facility for any treatment under this subpara-  
15 graph other than any copayment, coinsurance, or deductible otherwise  
16 required under the policy.

17 § 7. Subsection (a) of section 3224-a of the insurance law, as amended  
18 by chapter 237 of the laws of 2009, is amended to read as follows:

19 (a) Except in a case where the obligation of an insurer or an organ-  
20 ization or corporation licensed or certified pursuant to article forty-  
21 three or forty-seven of this chapter or article forty-four of the public  
22 health law to pay a claim submitted by a policyholder or person covered  
23 under such policy ("covered person") or make a payment to a health care  
24 provider is not reasonably clear, or when there is a reasonable basis  
25 supported by specific information available for review by the super-  
26 intendent that such claim or bill for health care services rendered was  
27 submitted fraudulently, such insurer or organization or corporation  
28 shall pay the claim to a policyholder or covered person or make a  
29 payment to a health care provider within thirty days of receipt of a  
30 claim or bill for services rendered that is transmitted via the internet  
31 or electronic mail, or forty-five days of receipt of a claim or bill for  
32 services rendered that is submitted by other means, such as paper or  
33 facsimile. The obligation of an insurer or organization to make payment  
34 to a health care provider for mental health or substance use disorder  
35 services that are not subject to preauthorization or concurrent review  
36 pursuant to sections three thousand two hundred sixteen, three thousand  
37 two hundred twenty-one, or four thousand three hundred three of this  
38 chapter shall not be considered not reasonably clear solely because the  
39 insurer or organization intends to perform concurrent review for such  
40 services before or after the expiration of the timeframes established by  
41 this subsection.

42 § 8. Paragraph 8 of subsection (g) of section 4303 of the insurance  
43 law, as added by section 23 of subpart A of part BB of chapter 57 of the  
44 laws of 2019, is amended to read as follows:

45 (8) This paragraph shall apply to hospitals in this state that are  
46 licensed, certified or otherwise authorized by the office of mental  
47 health that are participating in the [~~corporation's~~] insurer's provider  
48 network. Where the contract provides coverage for inpatient hospital  
49 care, benefits for inpatient hospital care in a hospital as defined by  
50 subdivision ten of section 1.03 of the mental hygiene law [~~provided to~~  
51 ~~individuals who have not attained the age of eighteen~~] shall not be  
52 subject to preauthorization. Coverage provided under this paragraph  
53 shall also not be subject to concurrent utilization review during the  
54 first fourteen days of the inpatient admission, provided the facility  
55 notifies the [~~corporation~~] insurer of both the admission and the initial  
56 treatment plan within two business days of the admission on a standard-

1 ized form developed by the department in consultation with the depart-  
2 ment of health and the office of mental health, performs daily clinical  
3 review of the patient, and [~~participates in periodic consultation with~~  
4 ~~the corporation to ensure that the facility is using the evidence-based~~  
5 ~~and peer reviewed clinical review criteria utilized by the corporation~~  
6 ~~which is approved by the office of mental health and appropriate to the~~  
7 ~~age of the patient, to ensure that the inpatient care is medically~~  
8 ~~necessary for the patient] consults periodically with the insurer  
9 regarding the patient's progress, course of treatment, and discharge  
10 plan. [All] Insurers shall actively participate in facility-initiated  
11 periodic consultations prior to the patient's discharge and except where  
12 the insurer fails to do so, all treatment provided under this paragraph  
13 may be reviewed retrospectively. Where care is denied retrospectively,  
14 an insured shall not have any financial obligation to the facility for  
15 any treatment under this paragraph other than any copayment, coinsu-  
16 rance, or deductible otherwise required under the contract.~~

17 § 9. Paragraph 4 of subsection (k) of section 4303 of the insurance  
18 law, as amended by section 26 of subpart A of part BB of chapter 57 of  
19 the laws of 2019, is amended to read as follows:

20 (4) This paragraph shall apply to facilities in this state that are  
21 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
22 ~~and substance abuse services] addiction services and supports that are  
23 participating in the [~~corporation's~~] insurer's provider network. Cover-  
24 age provided under this subsection shall not be subject to preauthori-  
25 zation. Coverage provided under this subsection shall also not be  
26 subject to concurrent utilization review during the first twenty-eight  
27 days of the inpatient admission provided that the facility notifies the  
28 [~~corporation~~] insurer of both the admission and the initial treatment  
29 plan within two business days of the admission on a standardized form  
30 developed by the department in consultation with the department of  
31 health and the office of addiction services and supports. The facility  
32 shall perform daily clinical review of the patient[~~, including periodic~~  
33 ~~consultation] and consult periodically with the insurer regarding the  
34 patient's progress, course of treatment, and discharge plan. Periodic  
35 consultation with the [corporation at or just prior to] insurer shall  
36 occur not later than the fourteenth day of treatment [~~to ensure that the~~  
37 ~~facility is using the evidence-based and peer reviewed clinical review~~  
38 ~~tool utilized by the corporation which is designated by the office of~~  
39 ~~alcoholism and substance abuse services and appropriate to the age of~~  
40 ~~the patient, to ensure that the inpatient treatment is medically neces-~~  
41 ~~sary for the patient]. Prior to discharge, the facility shall provide~~  
42 the patient and the [~~corporation~~] insurer with a written discharge plan  
43 which shall describe arrangements for additional services needed follow-  
44 ing discharge from the inpatient facility as determined using the  
45 evidence-based and peer-reviewed clinical review tool utilized by the  
46 [~~corporation~~] insurer which is designated by the office of [~~alcoholism~~  
47 ~~and substance abuse services] addiction services and supports. Prior to  
48 discharge, the facility shall indicate to the [~~corporation~~] insurer  
49 whether services included in the discharge plan are secured or deter-  
50 mined to be reasonably available. [~~Any~~] Insurers shall actively partic-  
51 ipate in facility-initiated periodic consultations prior to the  
52 patient's discharge and except where the insurer fails to do so, any  
53 utilization review of treatment provided under this paragraph may  
54 include a review of all services provided during such inpatient treat-  
55 ment, including all services provided during the first twenty-eight days  
56 of such inpatient treatment. Provided, however, the [~~corporation~~] insur-~~~~~~

1 er shall be required to process claims for the provision of such  
2 services within the timeframes established in subsection (a) of section  
3 three thousand two hundred twenty-four-a of this chapter and shall only  
4 deny coverage for any portion of the initial twenty-eight day inpatient  
5 treatment on the basis that such treatment was not medically necessary  
6 if such inpatient treatment was contrary to the evidence-based and peer  
7 reviewed clinical review tool utilized by the [~~corporation~~] insurer  
8 which is designated by the office of [~~alcoholism and substance abuse~~  
9 services] addiction services and supports. An insured shall not have  
10 any financial obligation to the facility for any treatment under this  
11 paragraph other than any copayment, coinsurance, or deductible otherwise  
12 required under the contract.

13 § 10. Paragraph 5 of subsection (1) of section 4303 of the insurance  
14 law, as amended by section 28 of subpart A of part BB of chapter 57 of  
15 the laws of 2019, is amended to read as follows:

16 (5) This paragraph shall apply to facilities in this state that are  
17 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
18 ~~and substance abuse services~~] addiction services and supports for the  
19 provision of outpatient, intensive outpatient, outpatient rehabilitation  
20 and opioid treatment that are participating in the corporation's provid-  
21 er network. Coverage provided under this subsection shall not be subject  
22 to preauthorization. Coverage provided under this subsection shall not  
23 be subject to concurrent review for the first four weeks of continuous  
24 treatment, not to exceed twenty-eight visits, provided the facility  
25 notifies the corporation of both the start of treatment and the initial  
26 treatment plan within two business days on a standardized form developed  
27 by the department in consultation with the department of health and the  
28 office of addiction services and supports. The facility shall perform  
29 clinical assessment of the patient at each visit[, ~~including periodic~~]  
30 and consult periodically with the insurer regarding the patient's  
31 progress, course of treatment, and discharge plan. Periodic consultation  
32 with the corporation [~~at or just prior to~~] shall occur no later than the  
33 fourteenth day of treatment [~~to ensure that the facility is using the~~  
34 ~~evidence-based and peer reviewed clinical review tool utilized by the~~  
35 ~~corporation which is designated by the office of alcoholism and~~  
36 ~~substance abuse services and appropriate to the age of the patient, to~~  
37 ~~ensure that the outpatient treatment is medically necessary for the~~  
38 ~~patient~~]. [~~Any~~] Insurers shall actively participate in facility-initiat-  
39 ed periodic consultations prior to the patient's discharge and except  
40 where the insurer fails to do so, any utilization review of the treat-  
41 ment provided under this paragraph may include a review of all services  
42 provided during such outpatient treatment, including all services  
43 provided during the first four weeks of continuous treatment, not to  
44 exceed twenty-eight visits, of such outpatient treatment. Provided,  
45 however, the corporation shall only deny coverage for any portion of the  
46 initial four weeks of continuous treatment, not to exceed twenty-eight  
47 visits, for outpatient treatment on the basis that such treatment was  
48 not medically necessary if such outpatient treatment was contrary to the  
49 evidence-based and peer reviewed clinical review tool utilized by the  
50 corporation which is designated by the office of [~~alcoholism and~~  
51 ~~substance abuse services~~] addiction services and supports. [~~A subscrib-~~  
52 ~~er~~] An insured shall not have any financial obligation to the facility  
53 for any treatment under this paragraph other than any copayment, coinsu-  
54 rance, or deductible otherwise required under the contract.

55 § 11. Section 109 of the insurance law is amended by adding a new  
56 subsection (e) to read as follows:

(e) In addition to any right of action granted to the superintendent pursuant to this section, any person who has been injured by reason of a violation of paragraphs thirty, thirty-one, thirty-one-a and thirty-five of subsection (i) of section three thousand two hundred sixteen, paragraphs five, six, seven and seven-a of subsection (l) of section three thousand two hundred twenty-one, and subsections (g), (k), (l) or (l-1) of section four thousand three hundred three of this chapter by an insurer subject to article thirty-two or forty-three of this chapter may bring an action in his or her own name to enjoin such unlawful act or practice, an action to recover his or her actual damages or one thousand dollars, whichever is greater, or both such actions. The court may, in its discretion, award the prevailing plaintiff in such action an additional award not to exceed five thousand dollars, if the court finds the defendant willfully violated the provisions of this section. The court may award reasonable attorneys' fees to a prevailing plaintiff.

§ 12. This act shall take effect January 1, 2023.

#### PART B

Section 1. Subparagraph (A) of paragraph 31-a of subsection (i) of section 3216 of the insurance law, as added by chapter 748 of the laws of 2019, is amended to read as follows:

(A) No policy that provides medical, major medical or similar comprehensive-type coverage and provides coverage for prescription drugs for medication for the treatment of a substance use disorder shall require prior authorization for an initial or renewal prescription for such drugs for the detoxification or maintenance of a substance use disorder, including all buprenorphine products, methadone [~~or~~], long acting injectable naltrexone [~~for detoxification or maintenance treatment of a substance use disorder~~] and medication for opioid overdose reversal prescribed or dispensed to an individual covered under the policy, except where otherwise prohibited by law.

§ 2. Subparagraph (A) of paragraph 7-a of subsection (l) of section 3221 of the insurance law, as added by chapter 748 of the laws of 2019, is amended to read as follows:

(A) No policy that provides medical, major medical or similar comprehensive-type small group coverage and provides coverage for prescription drugs for medication for the treatment of a substance use disorder shall require prior authorization for an initial or renewal prescription for such drugs for the detoxification or maintenance of a substance use disorder, including all buprenorphine products, methadone, long acting injectable naltrexone, and medication for opioid overdose reversal prescribed or dispensed to an individual covered under the policy, except where otherwise prohibited by law. Every policy that provides medical, major medical or similar comprehensive-type large group coverage shall provide coverage for prescription drugs for medication for the treatment of a substance use disorder and shall provide immediate coverage for all buprenorphine products, methadone [~~or~~], long acting injectable naltrexone, and medication for opioid overdose reversal prescribed or dispensed to an individual covered under the policy without prior authorization for the detoxification or maintenance treatment of a substance use disorder, except where otherwise prohibited by law.

§ 3. Subparagraph (A) of paragraph (l-1) of section 4303 of the insurance law, as added by chapter 748 of the laws of 2019, is amended to read as follows:

1 (A) No contract that provides medical, major medical or similar  
2 comprehensive-type individual or small group coverage and provides  
3 coverage for prescription drugs for medication for the treatment of a  
4 substance use disorder shall require prior authorization for an initial  
5 or renewal prescription for such drugs for the detoxification or mainte-  
6 nance of a substance use disorder, including all buprenorphine products,  
7 methadone, long acting injectable naltrexone, and medication for opioid  
8 overdose reversal prescribed or dispensed to an individual covered under  
9 the contract, except where otherwise prohibited by law. Every contract  
10 that provides medical, major medical, or similar comprehensive-type  
11 large group coverage shall provide coverage for prescription drugs for  
12 medication for the treatment of a substance use disorder and shall  
13 provide immediate coverage for all buprenorphine products, methadone  
14 [~~ex~~], long acting injectable naltrexone, and medication for opioid over-  
15 dose reversal prescribed or dispensed to an individual covered under the  
16 contract without prior authorization for the detoxification or mainte-  
17 nance treatment of a substance use disorder, except where otherwise  
18 prohibited by law.

19 § 4. This act shall take effect immediately.

20 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
21 sion, section or part of this act shall be adjudged by any court of  
22 competent jurisdiction to be invalid, such judgment shall not affect,  
23 impair, or invalidate the remainder thereof, but shall be confined in  
24 its operation to the clause, sentence, paragraph, subdivision, section  
25 or part thereof directly involved in the controversy in which such judg-  
26 ment shall have been rendered. It is hereby declared to be the intent of  
27 the legislature that this act would have been enacted even if such  
28 invalid provisions had not been included herein.

29 § 3. This act shall take effect immediately provided, however, that  
30 the applicable effective date of Parts A through B of this act shall be  
31 as specifically set forth in the last section of such Parts.