

# STATE OF NEW YORK

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5663--A

2021-2022 Regular Sessions

## IN SENATE

March 15, 2021

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Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to allowing patients to receive certain treatment by an occupational therapist without a referral from a physician or nurse practitioner; and to amend the insurance law, in relation to eliminating the need for referrals for certain treatment

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.

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

LBD01911-08-1

1     2. Treatment may be rendered by a licensed occupational therapist for  
2     ten visits, or thirty days, whichever shall occur first, without a  
3     referral from a physician or nurse practitioner provided that:

4     (a) the licensed occupational therapist has practiced occupational  
5     therapy on a full time basis equivalent to not less than three years;  
6     and

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

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

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

37     § 3. This act shall take effect on the one hundred twentieth day after  
38     it shall have become a law. Effective immediately, the addition, amend-  
39     ment and/or repeal of any rule or regulation necessary for the implemen-  
40     tation of this act on its effective date are authorized to be made and  
41     completed on or before such effective date.