

STATE OF NEW YORK

1171

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

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:

1 Section 1. Items (i) and (ii) of subparagraph (A) of paragraph 35 of
2 subsection (i) of section 3216 of the insurance law, as added by section
3 8 of subpart A of part BB of chapter 57 of the laws of 2019, are amended
4 to read as follows:

5 (i) where the policy provides coverage for inpatient hospital care,
6 such policy shall include benefits for inpatient care in a hospital as
7 defined by subdivision ten of section 1.03 of the mental hygiene law and
8 benefits for outpatient care provided in a facility issued an operating
9 certificate by the commissioner of mental health pursuant to the
10 provisions of article thirty-one of the mental hygiene law, or in a
11 facility operated by the office of mental health, or, for care provided
12 in other states, to similarly licensed or certified hospitals or facili-
13 ties; and

14 (ii) where the policy provides coverage for physician services, such
15 policy shall include benefits for outpatient care provided by a psychia-
16 trist or psychologist licensed to practice in this state, a licensed
17 clinical social worker [~~who meets the requirements of subparagraph (D)~~
18 ~~of paragraph four of subsection (1) of section three thousand two~~
19 ~~hundred twenty-one of this article,~~ within the lawful scope of his or
20 her practice, who is licensed pursuant to article one hundred fifty-four

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

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1 of the education law, a mental health counselor, marriage and family
2 therapist, creative arts therapist or psychoanalyst licensed pursuant to
3 article one hundred sixty-three of the education law, a nurse practi-
4 tioner licensed to practice in this state, or a professional corporation
5 or university faculty practice corporation thereof. Nothing herein
6 shall be construed to modify or expand the scope of practice of a mental
7 health counselor, marriage and family therapist, creative arts therapist
8 or psychoanalyst licensed pursuant to article one hundred sixty-three of
9 the education law.

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

13 (A) Every insurer delivering a group policy or issuing a group policy
14 for delivery, in this state, that provides reimbursement for psychiatric
15 or psychological services or for the diagnosis and treatment of mental
16 health conditions, however defined in such policy, by physicians,
17 psychiatrists or psychologists, shall [~~make available and if requested~~
18 ~~by the policyholder~~] provide the same coverage to insureds for such
19 services when performed by a licensed clinical social worker, within the
20 lawful scope of his or her practice, who is licensed pursuant to article
21 one hundred fifty-four of the education law[~~, Written notice of the~~
22 ~~availability of such coverage shall be delivered to the policyholder~~
23 ~~prior to inception of such group policy and annually thereafter, except~~
24 ~~that this notice shall not be required where a policy covers two hundred~~
25 ~~or more employees or where the benefit structure was the subject of~~
26 ~~collective bargaining affecting persons who are employed in more than~~
27 ~~one state.] and mental health counselors, marriage and family thera-
28 pists, creative arts therapists and psychoanalysts licensed pursuant to
29 article one hundred sixty-three of the education law, within the lawful
30 scope of his or her practice. Nothing herein shall be construed to modi-
31 fy or expand the scope of practice of a mental health counselor,
32 marriage and family therapist, creative arts therapist or psychoanalyst
33 licensed pursuant to article one hundred sixty-three of the education
34 law.~~

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

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

41 (ii) where the policy provides coverage for physician services, it
42 shall include benefits for outpatient care provided by a psychiatrist or
43 psychologist licensed to practice in this state, or a mental health
44 counselor, marriage and family therapist, creative arts therapist or
45 psychoanalyst licensed pursuant to article one hundred sixty-three of
46 the education law, or a licensed clinical social worker [~~who meets the~~
47 ~~requirements of subparagraph (D) of paragraph four of this subsection]~~
48 within the lawful scope of his or her practice, who is licensed pursuant
49 to article one hundred fifty-four of the education law, a nurse practi-
50 tioner licensed to practice in this state, or a professional corporation
51 or university faculty practice corporation thereof. Nothing herein shall
52 be construed to modify or expand the scope of practice of a mental
53 health counselor, marriage and family therapist, creative arts therapist
54 or psychoanalyst licensed pursuant to article one hundred sixty-three of
55 the education law.

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

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

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

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

23 (n) [~~In addition to the requirements of subsection (i) of this~~
24 ~~section, every~~] Every health service or medical expense indemnity corpo-
25 ration issuing a group contract pursuant to this section or a group
26 remittance contract for delivery in this state which contract provides
27 reimbursement to subscribers or physicians, psychiatrists or psychol-
28 ogists for psychiatric or psychological services or for the diagnosis
29 and treatment of mental health conditions, however defined in such
30 contract, must provide the same coverage to persons covered under the
31 group contract for such services when performed by a licensed clinical
32 social worker, within the lawful scope of his or her practice, who is
33 licensed pursuant to [~~subdivision two of section seven thousand seven~~
34 ~~hundred four of the education law and in addition shall have either (i)~~
35 ~~three or more additional years experience in psychotherapy, which for~~
36 ~~the purposes of this subsection shall mean the use of verbal methods in~~
37 ~~interpersonal relationships with the intent of assisting a person or~~
38 ~~persons to modify attitudes and behavior which are intellectually,~~
39 ~~socially or emotionally maladaptive, under supervision, satisfactory to~~
40 ~~the state board for social work, in a facility, licensed or incorporated~~
41 ~~by an appropriate governmental department, providing services for diag-~~
42 ~~nosis or treatment of mental health conditions, or (ii) three or more~~
43 ~~additional years experience in psychotherapy under the supervision,~~
44 ~~satisfactory to the state board for social work, of a psychiatrist, a~~
45 ~~licensed and registered psychologist or a licensed clinical social work-~~
46 ~~er qualified for reimbursement pursuant to subsection (i) of this~~
47 ~~section, or (iii) a combination of the experience specified in para-~~
48 ~~graphs (i) and (ii) totaling three years, satisfactory to the state~~
49 ~~board for social work.~~] article one hundred fifty-four of the education
50 law and a mental health counselor, marriage and family therapist, crea-
51 ative arts therapist or psychoanalyst licensed pursuant to article one
52 hundred sixty-three of the education law. Nothing herein shall be
53 construed to modify or expand the scope of practice of a mental health
54 counselor, marriage and family therapist, creative arts therapist or
55 psychoanalyst licensed pursuant to article one hundred sixty-three of
56 the education law. The state board for social work shall maintain a list

1 of all licensed clinical social workers qualified for reimbursement
2 under this subsection. The state board for mental health practitioners
3 shall maintain a list of all licensed mental health counselors, marriage
4 and family therapists, creative arts therapists or psychoanalysts quali-
5 fied for reimbursement under this subsection.

6 § 8. This act shall take effect on the first of January next succeed-
7 ing the date upon which it shall have become a law and shall apply to
8 policies and contracts issued, renewed, modified, altered or amended on
9 or after such effective date.