

# STATE OF NEW YORK

1727

2023-2024 Regular Sessions

## IN SENATE

January 13, 2023

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation to improper practices relating to staff membership or professional privileges of a physician and board certification

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

1 Section 1. Subdivision 1 of section 2801-b of the public health law,  
2 as amended by chapter 605 of the laws of 2008, is amended to read as  
3 follows:

4 1. It shall be an improper practice for the governing body of a hospi-  
5 tal to refuse to act upon an application for staff membership or profes-  
6 sional privileges or to deny or withhold from a physician, podiatrist,  
7 optometrist, dentist or licensed midwife staff membership or profes-  
8 sional privileges in a hospital, or to exclude or expel a physician,  
9 podiatrist, optometrist, dentist or licensed midwife from staff member-  
10 ship in a hospital or curtail, terminate or diminish in any way a physi-  
11 cian's, podiatrist's, optometrist's, dentist's or licensed midwife's  
12 professional privileges in a hospital, without stating the reasons  
13 therefor, or if the reasons stated are unrelated to standards of patient  
14 care, patient welfare, the objectives of the institution or the charac-  
15 ter or competency of the applicant. It shall be an improper practice for  
16 a governing body of a hospital to refuse to act upon an application or  
17 to deny or to withhold staff membership or professional privileges to a  
18 podiatrist based solely upon a practitioner's category of licensure. It  
19 shall be an improper practice for a governing body of a hospital to  
20 refuse to act upon an application or to deny or to withhold staff  
21 membership or professional privileges of a physician who was previously  
22 board-certified and who has not maintained such certification solely  
23 because such physician is not board-certified.

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

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1 § 2. Paragraph (a) of subdivision 1 of section 4406-d of the public  
2 health law, as amended by chapter 425 of the laws of 2016, is amended to  
3 read as follows:

4 (a) A health care plan shall, upon request, make available and  
5 disclose to health care professionals written application procedures and  
6 minimum qualification requirements which a health care professional must  
7 meet in order to be considered by the health care plan. The plan shall  
8 consult with appropriately qualified health care professionals in devel-  
9 oping its qualification requirements. A health care plan shall complete  
10 review of the health care professional's application to participate in  
11 the in-network portion of the health care plan's network and shall,  
12 within sixty days of receiving a health care professional's completed  
13 application to participate in the health care plan's network, notify the  
14 health care professional as to: (i) whether he or she is credentialed;  
15 or (ii) whether additional time is necessary to make a determination  
16 because of a failure of a third party to provide necessary documenta-  
17 tion. In such instances where additional time is necessary because of a  
18 lack of necessary documentation, a health plan shall make every effort  
19 to obtain such information as soon as possible and shall make a final  
20 determination within twenty-one days of receiving the necessary documen-  
21 tation. A health care plan may not refuse to approve an application from  
22 a physician, who was previously board-certified and who has not main-  
23 tained such certification, to participate in the in-network portion of  
24 the health care plan's network solely because such physician is not  
25 board-certified.

26 § 3. Paragraph 1 of subsection (a) of section 4803 of the insurance  
27 law, as amended by chapter 425 of the laws of 2016, is amended to read  
28 as follows:

29 (1) An insurer which offers a managed care product shall, upon  
30 request, make available and disclose to health care professionals writ-  
31 ten application procedures and minimum qualification requirements which  
32 a health care professional must meet in order to be considered by the  
33 insurer for participation in the in-network benefits portion of the  
34 insurer's network for the managed care product. The insurer shall  
35 consult with appropriately qualified health care professionals in devel-  
36 oping its qualification requirements for participation in the in-network  
37 benefits portion of the insurer's network for the managed care product.  
38 An insurer shall complete review of the health care professional's  
39 application to participate in the in-network portion of the insurer's  
40 network and, within sixty days of receiving a health care professional's  
41 completed application to participate in the insurer's network, will  
42 notify the health care professional as to: (A) whether he or she is  
43 credentialed; or (B) whether additional time is necessary to make a  
44 determination because of a failure of a third party to provide necessary  
45 documentation. In such instances where additional time is necessary  
46 because of a lack of necessary documentation, an insurer shall make  
47 every effort to obtain such information as soon as possible and shall  
48 make a final determination within twenty-one days of receiving the  
49 necessary documentation. An insurer may not refuse to approve an appli-  
50 cation from a physician, who was previously board-certified and who has  
51 not maintained such certification, for participation in the in-network  
52 portion of the insurer's network solely because such physician is not  
53 board-certified.

54 § 4. This act shall take effect immediately.