

# STATE OF NEW YORK

1727--A

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 -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 physician, podiatrist, optometrist, dentist, or licensed midwife based  
19 solely upon a practitioner's category of licensure. It shall be an  
20 improper practice for a governing body of a hospital to refuse to act  
21 upon an application or to deny or to withhold staff membership or  
22 professional privileges of a physician who was previously board-certi-  
23 fied and who has not maintained such certification solely because such  
24 physician is not board-certified.

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

LBD01818-02-4

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~~] such health care  
15 professional is credentialed; or (ii) whether additional time is neces-  
16 sary to make a determination because of a failure of a third party to  
17 provide necessary documentation. In such instances where additional time  
18 is necessary because of a lack of necessary documentation, a health plan  
19 shall make every effort to obtain such information as soon as possible  
20 and shall make a final determination within twenty-one days of receiving  
21 the necessary documentation. A health care plan may not refuse to  
22 approve an application from a physician, who was previously board-certi-  
23 fied and who has not maintained such certification, to participate in  
24 the in-network portion of the health care plan's network solely because  
25 such physician is not 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~~] such  
43 health care professional is credentialed; or (B) whether additional time  
44 is necessary to make a determination because of a failure of a third  
45 party to provide necessary documentation. In such instances where addi-  
46 tional time is necessary because of a lack of necessary documentation,  
47 an insurer shall make every effort to obtain such information as soon as  
48 possible and shall make a final determination within twenty-one days of  
49 receiving the necessary documentation. An insurer may not refuse to  
50 approve an application from a physician, who was previously board-certi-  
51 fied and who has not maintained such certification, for participation in  
52 the in-network portion of the insurer's network solely because such  
53 physician is not board-certified.

54 § 4. This act shall take effect immediately.