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Introduced by M. of A. LAVINE, COLTON, GLICK, SAYEGH, SEAWRIGHT, TAYLOR, VANEL, STIRPE, WOERNER, SHRESTHA -- Multi-Sponsored by -- M. of A. HEVESI -- read once and referred to the Committee on Health -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public health law and the insurance law, in relation to health care professional applications and terminations

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

1 Section 1. Subdivisions 2, 3, 4, 5, 6, 7, 8 and 9 of section 4406-d of
2 the public health law, as added by chapter 705 of the laws of 1996, are
3 amended to read as follows:

4 2. (a) A health care plan shall not terminate or not renew a contract
5 with a health care professional unless the health care plan provides to
6 the health care professional a written explanation of the reasons for
7 the proposed contract termination and an opportunity for a review or
8 hearing as hereinafter provided. This section shall not apply in cases
9 involving imminent harm to patient care, a determination of fraud, or a
10 final disciplinary action by a state licensing board or other govern-
11 mental agency that impairs the health care professional's ability to
12 practice.

13 (b) The notice of the proposed contract termination or non-renewal
14 provided by the health care plan to the health care professional shall
15 include:

16 (i) the reasons for the proposed action;

17 (ii) notice that the health care professional has the right to request
18 a hearing or review, at the professional's discretion, before a panel
19 appointed by the health care plan;

20 (iii) a time limit of not less than thirty days within which a health
21 care professional may request a hearing; and

22 (iv) a time limit for a hearing date which must be held within thirty
23 days after the date of receipt of a request for a hearing.

24 (c) The hearing panel shall be comprised of three persons appointed by
25 the health care plan. At least one person on such panel shall be a

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

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1 clinical peer in the same discipline and the same or similar specialty
2 as the health care professional under review. The hearing panel may
3 consist of more than three persons, provided however that the number of
4 clinical peers on such panel shall constitute one-third or more of the
5 total membership of the panel.

6 (d) The hearing panel shall render a decision on the proposed action
7 in a timely manner. Such decision shall include reinstatement of the
8 health care professional by the health care plan, provisional rein-
9 statement subject to conditions set forth by the health care plan or
10 termination of the health care professional. Such decision shall be
11 provided in writing to the health care professional.

12 (e) A decision by the hearing panel to terminate or not renew a health
13 care professional shall be effective not less than thirty days after the
14 receipt by the health care professional of the hearing panel's decision;
15 provided, however, that the provisions of paragraph (e) of subdivision
16 six of section [~~four thousand four~~ forty-four hundred three of this
17 article shall apply to such termination or non-renewal.

18 (f) In no event shall termination be effective earlier than sixty days
19 from the receipt of the notice of termination.

20 3. [~~Either party to a contract may exercise a right of non-renewal at~~
21 ~~the expiration of the contract period set forth therein or, for a~~
22 ~~contract without a specific expiration date, on each January first~~
23 ~~occurring after the contract has been in effect for at least one year,~~
24 ~~upon sixty days notice to the other party, provided, however, that any~~
25 ~~non-renewal shall not constitute a termination for purposes of this~~
26 ~~section.~~

27 ~~4.~~] A health care plan shall develop and implement policies and proce-
28 dures to ensure that health care professionals are regularly informed of
29 information maintained by the health care plan to evaluate the perform-
30 ance or practice of the health care professional. The health care plan
31 shall consult with health care professionals in developing methodologies
32 to collect and analyze health care professional profiling data. Health
33 care plans shall provide any such information and profiling data and
34 analysis to health care professionals. Such information, data or analy-
35 sis shall be provided on a periodic basis appropriate to the nature and
36 amount of data and the volume and scope of services provided. Any
37 profiling data used to evaluate the performance or practice of a health
38 care professional shall be measured against stated criteria and an
39 appropriate group of health care professionals using similar treatment
40 modalities serving a comparable patient population. Upon presentation of
41 such information or data, each health care professional shall be given
42 the opportunity to discuss the unique nature of the health care profes-
43 sional's patient population which may have a bearing on the health care
44 professional's profile and to work cooperatively with the health care
45 plan to improve performance.

46 [~~5.~~] 4. No health care plan shall terminate a contract or employment,
47 or refuse to renew a contract, solely because a health care provider
48 has:

- 49 (a) advocated on behalf of an enrollee;
- 50 (b) filed a complaint against the health care plan;
- 51 (c) appealed a decision of the health care plan;
- 52 (d) provided information or filed a report pursuant to section forty-
53 four hundred six-c of this article; or
- 54 (e) requested a hearing or review pursuant to this section.

55 [~~6.~~] 5. Except as provided herein, no contract or agreement between a
56 health care plan and a health care professional shall contain any

1 provision which shall supersede or impair a health care professional's
2 right to notice of reasons for termination or non-renewal and the oppor-
3 tunity for a hearing or review concerning such termination or non-rene-
4 wal.

5 ~~[7.]~~ 6. Any contract provision in violation of this section shall be
6 deemed to be void and unenforceable.

7 ~~[8.]~~ 7. For purposes of this section, "health care plan" shall mean a
8 health maintenance organization licensed pursuant to article forty-three
9 of the insurance law or certified pursuant to this article or an inde-
10 pendent practice association certified or recognized pursuant to this
11 article.

12 ~~[9.]~~ 8. For purposes of this section, "health care professional" shall
13 mean a health care professional licensed, registered or certified pursu-
14 ant to title eight of the education law.

15 § 2. Subsections (b), (c), (d), (e), (f), (g) and (h) of section 4803
16 of the insurance law, as added by chapter 705 of the laws of 1996, are
17 amended to read as follows:

18 (b) (1) An insurer shall not terminate or not renew a contract with a
19 health care professional for participation in the in-network benefits
20 portion of the insurer's network for a managed care product unless the
21 insurer provides to the health care professional a written explanation
22 of the reasons for the proposed contract termination and an opportunity
23 for a review or hearing as hereinafter provided. This section shall not
24 apply in cases involving imminent harm to patient care, a determination
25 of fraud, or a final disciplinary action by a state licensing board or
26 other governmental agency that impairs the health care professional's
27 ability to practice.

28 (2) The notice of the proposed contract termination or non-renewal
29 provided by the insurer to the health care professional shall include:

30 (i) the reasons for the proposed action;

31 (ii) notice that the health care professional has the right to request
32 a hearing or review, at the professional's discretion, before a panel
33 appointed by the insurer;

34 (iii) a time limit of not less than thirty days within which a health
35 care professional may request a hearing or review; and

36 (iv) a time limit for a hearing date which must be held within not
37 less than thirty days after the date of receipt of a request for a hear-
38 ing.

39 (3) The hearing panel shall be comprised of three persons appointed by
40 the insurer. At least one person on such panel shall be a clinical peer
41 in the same discipline and the same or similar specialty as the health
42 care professional under review. The hearing panel may consist of more
43 than three persons, provided however that the number of clinical peers
44 on such panel shall constitute one-third or more of the total membership
45 of the panel.

46 (4) The hearing panel shall render a decision on the proposed action
47 in a timely manner. Such decision shall include reinstatement of the
48 health care professional by the insurer, provisional reinstatement
49 subject to conditions set forth by the insurer or termination of the
50 health care professional. Such decision shall be provided in writing to
51 the health care professional.

52 (5) A decision by the hearing panel to terminate or not renew a health
53 care professional shall be effective not less than thirty days after the
54 receipt by the health care professional of the hearing panel's decision;
55 provided, however, that the provisions of subsection (e) of section four

1 thousand eight hundred four of this article shall apply to such termi-
2 nation.

3 (6) In no event shall termination or non-renewal be effective earlier
4 than sixty days from the receipt of the notice of termination or non-re-
5 newal.

6 (c) [~~Either party to a contract for participation in the in-network~~
7 ~~benefits portion of an insurer's network for a managed care product may~~
8 ~~exercise a right of non-renewal at the expiration of the contract period~~
9 ~~set forth therein or, for a contract without a specific expiration date,~~
10 ~~on each January first occurring after the contract has been in effect~~
11 ~~for at least one year, upon sixty days notice to the other party,~~
12 ~~provided, however, that any non-renewal shall not constitute a termi-~~
13 ~~nation for purposes of this section.~~

14 (d) An insurer shall develop and implement policies and procedures to
15 ensure that health care providers participating in [~~the~~] the in-network
16 benefits portion of an insurer's network for a managed care product are
17 regularly informed of information maintained by the insurer to evaluate
18 the performance or practice of the health care professional. The insurer
19 shall consult with health care professionals in developing methodologies
20 to collect and analyze provider profiling data. Insurers shall provide
21 any such information and profiling data and analysis to these health
22 care professionals. Such information, data or analysis shall be provided
23 on a periodic basis appropriate to the nature and amount of data and the
24 volume and scope of services provided. Any profiling data used to evalu-
25 ate the performance or practice of such a health care professional shall
26 be measured against stated criteria and an appropriate group of health
27 care professionals using similar treatment modalities serving a compara-
28 ble patient population. Upon presentation of such information or data,
29 each such health care professional shall be given the opportunity to
30 discuss the unique nature of the health care professional's patient
31 population which may have a bearing on the professional's profile and to
32 work cooperatively with the insurer to improve performance.

33 [~~(e)~~] (d) No insurer shall terminate or refuse to renew a contract for
34 participation in the in-network benefits portion of an insurer's network
35 for a managed care product solely because the health care professional
36 has (1) advocated on behalf of an insured; (2) has filed a complaint
37 against the insurer; (3) has appealed a decision of the insurer; (4)
38 provided information or filed a report pursuant to section forty-four
39 hundred six-c of the public health law; or (5) requested a hearing or
40 review pursuant to this section.

41 [~~(f)~~] (e) Except as provided herein, no contract or agreement between
42 an insurer and a health care professional for participation in the
43 in-network benefits portion of an insurer's network for a managed care
44 product shall contain any provision which shall supersede or impair a
45 health care professional's right to notice of reasons for termination or
46 non-renewal and the opportunity for a hearing concerning such termi-
47 nation or non-renewal.

48 [~~(g)~~] (f) Any contract provision in violation of this section shall be
49 deemed to be void and unenforceable.

50 [~~(h)~~] (g) For purposes of this section, "health care professional"
51 shall mean a health care professional licensed, registered or certified
52 pursuant to title eight of the education law.

53 § 3. This act shall take effect immediately.