

November 15, 2022

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, New York 12224

RE: A879 (Gottfried)/S8113 (Cleare)

AN ACT to amend the public health law and the insurance law, in relation to the definition of clinical peer reviewer

Dear Governor Hochul,

The New York State Society of Plastic Surgeons, Inc. (NYSSPS), the statewide medical specialty society representing practicing plastic surgeons with a mission of advancing quality care for plastic surgery patients and promoting public policy that protects patient safety, **strongly supports** the enactment of the above referenced legislation.

This legislation amends the Public Health Law and Insurance Law to establish important qualifications for clinical peer reviewers, who insurers and health plans use to make medical necessity determinations whereby clinical peer reviewers have the authority to approve or deny care recommended by the patient's treating physician. Importantly, the above referenced legislation will require the reviewer to be a physician licensed in New York State (NYS) under Article 131 of the State Education Law and of the same or similar specialty as the physician who would typically manage the medical condition or disease or provide the treatment under review. Under current law, the clinical peer reviewer does not have to be a physician licensed in New York State nor does the reviewer have to have board certification and/or eligibility in the same or similar specialty.

In 2021, there were nearly 60,000 internal appeals made by patients against New York-regulated health insurers for claim or pre-authorization denials for certain medical procedures with nearly 50% of these appeals reversed, according to the 2022 New York State Guide to Health Insurers.¹ This is an increase from 2020 when there were nearly 52,000 internal appeals and again nearly 50% of these appeals reversed, according to the 2021 New York State Guide to Health Insurers.² Furthermore, the Medical Society of the State of New York (MSSNY) conducted a survey of its members, which spans physicians, medical residents, and medical students in NYS across medical specialties and found that 86% of respondents had pre-authorization request or claim submission denied by an insurer based on the review by a health care provider that didn't specialize in their specialty. This survey also found that 42% of respondents frequently had pre-authorization or claim submission from a physician not in the same specialty and 77% at least sometimes did. This data demonstrates the importance and need for the enactment of this legislation. This data demonstrates the importance and need for the enactment of this legislation.

Current law already affords this protection for external appeals since 1998 but does not do so for internal appeals, a disparity that must not be allowed to continue so as to not inhibit or delay necessary care and treatment. For all of the reasons mentioned above, NYSSPS joins MSSNY and a diverse of set medical specialty societies **strongly supporting** the enactment of this legislation.

Sincerely,



Dan Huang, MD

President

New York State Society of Plastic Surgeons

¹ https://www.dfs.ny.gov/system/files/documents/2022/08/ny_consumer_guide_health_insurers_2022.pdf

² https://www.dfs.ny.gov/system/files/documents/2021/08/ny_consumer_guide_health_insurers_2021.pdf