S T A T E O F N E W Y O R K

2254

2013-2014 Regular Sessions

I N S E N A T E

January 15, 2013

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

AN ACT to amend the public health law, the education law, the social services law, the workers' compensation law, the mental hygiene law and the general business law, in relation to clarifying the scope of practice of licensed physician assistants

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 3700 of the public health law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

1. Physician assistant. The term "physician assistant" means a [person] DEPENDENT PRACTITIONER WORKING UNDER THE SUPERVISION OF A LICENSED PHYSICIAN RESPONSIBLE FOR THE ACTIONS OF THE PHYSICIAN ASSISTANT AND who is licensed as a physician assistant pursuant to section sixty-five hundred forty-one of the education law.

S 2. The public health law is amended by adding a new section 3704 to read as follows:

S 3704. PERFORMANCE OF MEDICAL SERVICES. 1. A PHYSICIAN ASSISTANT MAY PERFORM MEDICAL SERVICES, BUT ONLY WHEN UNDER THE SUPERVISION OF A PHYSICIAN AND ONLY WHEN SUCH ACTS ASSIGNED TO HIM OR HER ARE WITHIN THE SCOPE OF PRACTICE OF SUCH SUPERVISING PHYSICIAN. THE SUPERVISING PHYSICIAN MAY DELEGATE TO THE PHYSICIAN ASSISTANT ANY MEDICAL PROCEDURES OR TASKS FOR WHICH THE PHYSICIAN ASSISTANT IS APPROPRIATELY TRAINED AND QUALIFIED TO PERFORM AND THAT ARE PERFORMED WITHIN THE NORMAL SCOPE OF THE PHYSICIAN'S PRACTICE.

2. NOTHING IN THIS ARTICLE OR IN ARTICLE ONE HUNDRED THIRTY-ONE-B OF THE EDUCATION LAW SHALL BE CONSTRUED TO AUTHORIZE PHYSICIAN ASSISTANTS TO PERFORM THOSE SPECIFIC FUNCTIONS AND DUTIES SPECIFICALLY DELEGATED BY LAW TO THOSE PERSONS LICENSED AS ALLIED HEALTH PROFESSIONALS UNDER THIS CHAPTER OR THE EDUCATION LAW. SPECIFICALLY, PHYSICIAN ASSISTANTS SHALL

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

LBD06422-01-3

NOT PERFORM THE PRACTICE OF RADIOLOGIC TECHNOLOGY OR THE PRACTICE OF OPTOMETRY AS THOSE PRACTICES ARE DEFINED UNDER THIS CHAPTER AND THE EDUCATION LAW.

S 3. Subdivisions 1 and 2 of section 2305 of the public health law, as amended by chapter 878 of the laws of 1980, are amended to read as follows:

1. No person, other than a licensed physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, or, in a hospital, a staff physician, shall diagnose, treat or prescribe for a person who is infected with a sexually transmissible disease, or who has been exposed to infection with a sexually transmissible disease, or dispense or sell a drug, medicine or remedy for the treatment of such person except on prescription of a duly licensed physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN.

2. A licensed physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, or in a hospital, a staff physician, may diagnose, treat or prescribe for a person under the age of twenty-one years without the consent or knowledge of the parents or guardian of said person, where such person is infected with a sexually transmissible disease, or has been exposed to infection with a sexually transmissible disease.

S 4. Subdivisions 1 and 2 of section 2308 of the public health law are amended to read as follows:

1. Every physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN attending pregnant women in the state shall in the case of every woman so attended take or cause to be taken a sample of blood of such woman at the time of first examination, and submit such sample to an approved laboratory for a standard serological test for syphilis.

2. Every other person permitted by law to attend upon pregnant women in the state but not permitted by law to take blood tests, shall cause a sample of the blood of such pregnant woman to be taken promptly by a duly licensed physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN and submitted to an approved laboratory for a standard serological test for syphilis.

S 5. Section 2498 of the public health law, as added by chapter 237 of the laws of 1990, is amended to read as follows:

S 2498. Provision of summary by physician. The summary shall be provided by a physician, OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN, to each person under such physician's OR PHYSICIAN ASSISTANT'S care, when a hysterectomy is under consideration for that person.

S 6. Subdivision 10 of section 2500-e of the public health law, as added by chapter 4 of the laws of 1990, is amended to read as follows:

10. If any licensed physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN or nurse practitioner certifies that a follow-up dose of hepatitis B vaccine may be detrimental to a child's health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to such child's health.

S 7. Section 2502 of the public health law, as amended by chapter 884 of the laws of 1972, is amended to read as follows:

S 2502. Report of certain conditions. Any nurse-midwife, nurse or other person having the care of an infant within the age of two weeks who neglects or omits to report immediately to the health officer or to a legally qualified practitioner of medicine of the city, town or place where such child is being cared for, the fact that one or both eyes of

such infant are [inflammed] INFLAMED or reddened whenever such shall be the case, or who applies any remedy therefor without the advice, or except by the direction of such officer or physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN is guilty of a misdemeanor.

S 8. Section 2503 of the public health law, as amended by chapter 485 of the laws of 1978, is amended to read as follows:

S 2503. Drug information to be furnished expectant mothers. The physician, A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN or nurse-midwife to be in attendance at the birth of a child shall inform the expectant mother, in advance of the birth, of the drugs that such physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN or nurse-midwife expects to employ during pregnancy and of the obstetrical and other drugs that such physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN or nurse-midwife expects to employ at birth and of the possible effects of such drugs on the child and mother.

S 9. Subdivision 4 of section 2504 of the public health law, as added by chapter 769 of the laws of 1972 and as renumbered by chapter 976 of the laws of 1984, is amended to read as follows:

4. Medical, dental, health and hospital services may be rendered to persons of any age without the consent of a parent or legal guardian when, in the physician's OR PHYSICIAN ASSISTANT'S UNDER THE SUPERVISION OF SUCH PHYSICIAN judgment an emergency exists and the person is in immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk to the person's life or health.

S 10. Subdivision 1 of section 2570 of the public health law, as amended by chapter 495 of the laws of 1955, is amended to read as follows:

1. Every institution in this state, operated for the express purpose of receiving or caring for dependent, neglected or destitute children or juvenile delinquents, except hospitals, shall have attached thereto a regular physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A REGULAR PHYSICIAN of its selection duly licensed under the laws of the state and in good professional standing, whose name and address shall be kept posted conspicuously within such institution.

S 11. Subdivision 1 of section 2573 of the public health law, as added by chapter 495 of the laws of 1955, is amended to read as follows:

1. The administrative officer or person in charge and the regular physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A REGULAR PHYSICIAN of every institution caring for children referred to in this article shall make such reports concerning the physical condition and health of the children and the environmental sanitation of the institution as may be required by the state health commissioner, local health officer or health commissioner having jurisdiction.

S 12. Subdivision 14 of section 3001 of the public health law, as amended by chapter 804 of the laws of 1992, is amended to read as follows:

14. "Qualified medical and health personnel" means physicians, PHYSICIAN ASSISTANTS, registered professional nurses and advanced emergency medical technicians competent in the management of patients requiring advanced life support care.

S 13. Subdivisions 4 and 5 of section 3602 of the public health law, as amended by chapter 600 of the laws of 2002, are amended to read as follows:

4. "Home health aide services" means simple health care tasks, personal hygiene services, housekeeping tasks essential to the patient's health and other related supportive services. Such services shall be prescribed by a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN in accordance with a plan of treatment for the patient and shall be under the supervision of a registered professional nurse from a certified home health agency or, when appropriate, from a provider of a long term home health care program and of the appropriate professional therapist from such agency or provider when the aide carries out simple procedures as an extension of physical, speech or occupational therapy. Such services may also be prescribed or ordered by a nurse practitioner to the extent authorized by law and consistent with the written practice agreement pursuant to subdivision three of section six thousand nine hundred two of the education law and not prohibited by federal law or regulation.

5. "Personal care services" means services to assist with personal hygiene, dressing, feeding and household tasks essential to the patient's health. Such services shall be prescribed by a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN in accordance with a plan of home care supervised by a registered professional nurse. Such services may also be prescribed or ordered by a nurse practitioner to the extent authorized by law and consistent with the written practice agreement pursuant to subdivision three of section six thousand nine hundred two of the education law and not prohibited by federal law or regulations.

S 14. Subdivision 4 of section 4141 of the public health law, as amended by chapter 153 of the laws of 2011, is amended to read as follows:

4. (a) The medical certificate shall be made, dated, and signed by the physician, THE PHYSICIAN ASSISTANT ACTING UNDER THE SUPERVISION OF A PHYSICIAN, or nurse practitioner, if any, last in attendance on the deceased.

(b) Indefinite terms, denoting only symptoms of disease or conditions resulting from disease, shall not be held sufficient.

(c) Any certificate stating the cause of death in terms which the commissioner declares indefinite shall be returned to the physician, THE PHYSICIAN ASSISTANT ACTING UNDER THE SUPERVISION OF A PHYSICIAN, nurse practitioner, or person making the medical certificate for correction and more definite statement. A CERTIFICATE CERTIFIED TO AND SIGNED BY A PHYSICIAN ASSISTANT IN ACCORDANCE WITH THIS SECTION SHALL HAVE THE SAME FORCE AND EFFECT IN THE LAW AS A CERTIFICATE SIGNED BY A PHYSICIAN.

(d) Where a death is caused by an opioid overdose, such information shall be indicated, including any related information as the commissioner may require.

S 15. Section 4141-a of the public health law, as amended by chapter 153 of the laws of 2011, is amended to read as follows:

S 4141-a. Death certificate; duties of hospital administrator. When a death occurs in a hospital, except in those cases where certificates are issued by coroners or medical examiners, the person in charge of such hospital or his or her designated representative shall promptly present the certificate to the physician, THE PHYSICIAN ASSISTANT ACTING UNDER THE SUPERVISION OF A PHYSICIAN, or nurse practitioner in attendance, or a physician, PHYSICIAN ASSISTANT ACTING UNDER THE SUPERVISION OF A PHYSICIAN, or nurse practitioner acting in his or her behalf, who shall promptly certify to the facts of death, provide the medical information required by the certificate, sign the medical certificate of death, and

thereupon return such certificate to such person, so that the seventy-two hour registration time limit prescribed in section four thousand one hundred forty of this title can be met. A CERTIFICATE CERTIFIED TO AND SIGNED BY A PHYSICIAN ASSISTANT IN ACCORDANCE WITH THIS SECTION SHALL HAVE THE SAME FORCE AND EFFECT IN LAW AS A CERTIFICATE SIGNED BY A PHYSICIAN.

S 16. Subdivision (b) of section 4142 of the public health law, as amended by chapter 153 of the laws of 2011, is amended to read as follows:

(b) present the certificate promptly to the attending physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, or nurse practitioner, who shall forthwith certify to the facts of death, provide the medical information required by the certificate and sign the medical certificate of death, or to the coroner or medical examiner in those cases where so required by this article or, when a death occurs in a hospital, except in those cases where certificates are issued by coroners or medical examiners, to the person in charge of such hospital or his or her designated representative, who shall obtain the medical certificate of death as prescribed in section four thousand one hundred forty-one-a of this title;

S 17. Paragraph (b) of subdivision 2 of section 4144 of the public health law, as amended by chapter 153 of the laws of 2011, is amended to read as follows:

(b) [Verbal] SPOKEN permission to remove a body of a deceased person from the county in which death occurred or the body was found to a non-adjacent county within the state of New York, as provided in subdivision one of this section, shall be issued by the said registrar of vital statistics, upon request by telephone of a licensed funeral director or undertaker who holds a certificate of death signed by the attending physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, or nurse practitioner, showing that the death resulted from natural causes and was not a result of accidental, suicidal, homicidal or other external causes.

S 18. The section heading and subdivisions 2, 3 and 4 of section 4161 of the public health law, as amended by chapter 153 of the laws of 2011, are amended to read as follows:

Fetal death certificates; form and content; physicians, PHYSICIAN ASSISTANTS, nurse practitioners, midwives, and hospital administrators.

2. In each case where a physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, or nurse practitioner was in attendance at or after a fetal death, it is the duty of such physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, or nurse practitioner to certify to the birth and to the cause of death on the fetal death certificate. Where a nurse-midwife was in attendance at a fetal death it is the duty of such nurse-midwife to certify to the birth but, he or she shall not certify to the cause of death on the fetal death certificate.

3. Fetal deaths occurring without the attendance of a physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, or nurse practitioner as provided in subdivision two of this section shall be treated as deaths without medical attendance, as provided in this article.

4. When a fetal death occurs in a hospital, except in those cases where certificates are issued by coroners or medical examiners, the person in charge of such hospital or his or her designated representative shall promptly present the certificate to the physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, or nurse practitioner in attendance, or a physician, PHYSICIAN ASSISTANT UNDER THE

SUPERVISION OF A PHYSICIAN, or nurse practitioner acting in his or her behalf, who shall promptly certify to the facts of birth and of fetal death, provide the medical information required by the certificate, sign the medical certificate of birth and death, and thereupon return such certificate to such person, so that the seventy-two hour registration time limit prescribed in section four thousand one hundred sixty of this title can be met.

S 19. The section heading and subdivision 1 of section 4171 of the public health law, as amended by chapter 153 of the laws of 2011, are amended to read as follows:

Records; duties of physicians, PHYSICIAN ASSISTANTS, nurse practitioners, and others to furnish information.

1. Physicians, PHYSICIAN ASSISTANTS UNDER THE SUPERVISION OF A PHYSICIAN, nurse practitioners, nurse-midwives, funeral directors, undertakers and informants, and all other persons having knowledge of the facts, are hereby required to supply, upon a form provided by the commissioner or upon the original certificate, such information as they may possess regarding any birth or death upon demand of the commissioner, in person, by mail, or through the registrar.

S 20. Subdivisions 1, 3 and 5 of section 4175 of the public health law, as amended by chapter 153 of the laws of 2011, are amended to read as follows:

1. If, at any time after the birth, or within one year of the death, of any person within the state, a certified copy of the official record of said birth or death, with the information required to be registered by this article, is necessary for legal, judicial, or other proper purposes, and, after search by the commissioner or his or her representatives, it appears that no such certificate of birth or death was made and filed as provided by this article, then the commissioner shall immediately require the physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, nurse practitioner, or nurse-midwife who, being in attendance upon a birth, failed or neglected to file a certificate thereof, or the funeral director, undertaker, or other person who, having charge of the interment or removal of the body of a deceased person, failed or neglected to file the certificate of death, if he or she is living, to obtain and file at once with the local registrar such certificate in as complete form as the lapse of time will permit.

3. If the physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, nurse practitioner, nurse-midwife, funeral director, or undertaker responsible for the report is deceased or cannot be located, then the person making application for the certified copy of the record may file such certificate of birth or death together with such statements subscribed and affirmed by the persons making them as true under the penalties of perjury and other evidence as the commissioner may require.

5. The delinquent physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, nurse practitioner, nurse-midwife, funeral director, undertaker, or other person may, in the discretion of the commissioner, be prosecuted as required by this article, without bar from the statute of limitations, if he or she neglects or fails to file promptly the certificate required by this section.

S 21. Subdivision 1 of section 6540 of the education law, as amended by chapter 48 of the laws of 2012, is amended to read as follows:

1. Physician assistant. The term "physician assistant" means a [person] DEPENDENT PRACTITIONER WORKING UNDER THE SUPERVISION OF A LICENSED PHYSICIAN RESPONSIBLE FOR THE ACTIONS OF THE PHYSICIAN ASSIST-

ANT AND who is licensed as a physician assistant pursuant to this article.

S 22. Subdivisions 1 and 7 of section 6542 of the education law, as amended by chapter 48 of the laws of 2012, are amended to read as follows:

1. Notwithstanding any other provision of law, a physician assistant may perform medical services, but only when under the supervision of a physician and only when such acts and duties as are assigned to him or her are within the scope of practice of such supervising physician. THE SUPERVISING PHYSICIAN MAY DELEGATE TO THE PHYSICIAN ASSISTANT ANY MEDICAL PROCEDURES OR TASKS FOR WHICH THE PHYSICIAN ASSISTANT IS APPROPRIATELY TRAINED AND QUALIFIED TO PERFORM AND THAT ARE PERFORMED WITHIN THE NORMAL SCOPE OF THE PHYSICIAN'S PRACTICE.

7. Nothing in this article, or in article thirty-seven of the public health law, shall be construed to authorize physician assistants to perform those specific functions and duties specifically delegated by law to those persons licensed as allied health professionals under the public health law or this [chapter] TITLE. SPECIFICALLY, PHYSICIAN ASSISTANTS SHALL NOT PERFORM THE PRACTICE OF RADIOLOGIC TECHNOLOGY OR THE PRACTICE OF OPTOMETRY AS THOSE PRACTICES ARE DEFINED UNDER THE PUBLIC HEALTH LAW AND THIS TITLE.

S 23. The education law is amended by adding a new section 6545-a to read as follows:

S 6545-A. STATUTORY CONSTRUCTION. A PHYSICIAN ASSISTANT MAY PERFORM ANY FUNCTION, WITH APPROPRIATE PHYSICIAN SUPERVISION, IN ANY HEALTH CARE SETTING, THAT A STATUTE AUTHORIZES OR DIRECTS A PHYSICIAN TO PERFORM AND THAT IS WITHIN THE NORMAL PRACTICE OF THAT PHYSICIAN, EXCEPT THOSE FUNCTIONS AUTHORIZED OR DIRECTED BY AND IN ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW, UNLESS THE STATUTE AUTHORIZING OR DIRECTING THE PHYSICIAN TO PERFORM SUCH FUNCTION OR FUNCTIONS EXPRESSLY STATES OTHERWISE.

S 24. Subdivision c of section 6731 of the education law, as amended by chapter 389 of the laws of 2007, is amended to read as follows:

c. Such treatment shall be rendered pursuant to a referral which may be directive as to treatment by a licensed physician, A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, dentist, podiatrist, nurse practitioner or licensed midwife, each acting within his or her lawful scope of practice, and in accordance with their diagnosis, except as provided in subdivision d of this section.

S 25. Subdivision c of section 6741 of the education law, as added by chapter 618 of the laws of 1980, is amended to read as follows:

c. Nothing in this article is intended to affect the overall medical direction by a licensed physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, of a physical therapist assistant.

S 26. Subdivision 3 of section 6807 of the education law, as added by chapter 573 of the laws of 1999, is amended to read as follows:

3. A pharmacist may dispense drugs and devices to a registered professional nurse, and a registered professional nurse may possess and administer, drugs and devices, pursuant to a non-patient specific regimen prescribed or ordered by a licensed physician, A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN or certified nurse practitioner, pursuant to regulations promulgated by the commissioner and the public health law.

S 27. Subdivision 5 of section 6909 of the education law, as added by chapter 573 of the laws of 1999, is amended to read as follows:

5. A registered professional nurse may execute a non-patient specific regimen prescribed or ordered by a licensed physician, A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN or certified nurse practitioner, pursuant to regulations promulgated by the commissioner.

S 28. Section 6957 of the education law, as amended by chapter 328 of the laws of 1992, is amended to read as follows:

S 6957. Exempt persons. Nothing in this article shall be construed to affect, prevent or in any manner expand or limit any duty or responsibility of a licensed physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, from practicing midwifery or affect or prevent a medical student, PHYSICIAN ASSISTANT STUDENT or midwifery student in clinical practice under the supervision of a licensed physician or board certified obstetrician/gynecologist or licensed midwife practicing [pursuant to the provisions of section twenty-five hundred sixty of the public health law] in pursuance of an educational program registered by the department from engaging in such practice.

S 29. Section 7901 of the education law, as amended by chapter 460 of the laws of 2011, is amended to read as follows:

S 7901. Definition. The practice of the profession of occupational therapy is defined as the functional evaluation of the client, the planning and utilization of a program of purposeful activities, the development and utilization of a treatment program, and/or consultation with the client, family, caregiver or organization in order to restore, develop or maintain adaptive skills, and/or performance abilities designed to achieve maximal physical, cognitive and mental functioning of the client associated with his or her activities of daily living and daily life tasks. A treatment program designed to restore function, shall be rendered on the prescription or referral of a physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, nurse practitioner or other health care provider acting within his or her scope of practice pursuant to this title. However, nothing contained in this article shall be construed to permit any licensee hereunder to practice medicine or psychology, including psychotherapy or to otherwise expand such licensee's scope of practice beyond what is authorized by this chapter.

S 30. Subdivision 7 of section 461-c of the social services law, as amended by chapter 168 of the laws of 2011, is amended to read as follows:

7. (a) At the time of the admission to an adult care facility, other than a shelter for adults, a resident shall submit to the facility a written report from a physician, a physician assistant UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, or a nurse practitioner, which report shall state:

(i) that the physician, physician assistant UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, or nurse practitioner has physically examined the resident within one month and the date of such examination;

(ii) that the resident is not in need of acute or long term medical or nursing care which would require placement in a hospital or residential health care facility; and

(iii) that the resident is not otherwise medically or mentally unsuited for care in the facility.

(b) For the purpose of creating an accessible and available record and assuring that a resident is properly placed in such a facility, the report shall also contain the resident's significant medical history and current conditions, the prescribed medication regimen, and recommenda-

tions for diet, the assistance needed in the activities of daily living and where appropriate, recommendations for exercise, recreation and frequency of medical examinations.

(c) Such resident shall thereafter be examined by a physician, a physician assistant UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, or a nurse practitioner, at least annually and shall submit an annual written report in conformity with the provisions of this subdivision.

(d) Following a resident's stay in a hospital or residential health care facility, upon return to the adult care facility, the adult care facility shall not be required to obtain the report in paragraph (a) of this subdivision, and instead shall obtain a statement from the discharging facility which shall:

(i) state that the resident is appropriate to return to the facility; and

(ii) include the reason for the resident's stay, the treatment plan to be followed, and any new or changed orders, including medications.

The statement shall be completed by a physician, a physician assistant UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, or a nurse practitioner.

(e) Nothing required in this section shall require the use of an identical form in adult care facilities and assisted living residences, either upon admission or return.

S 31. Paragraphs (a), (b) and (c) of subdivision 1 of section 13-b of the workers' compensation law, as amended by chapter 473 of the laws of 2000, are amended to read as follows:

(a) Any physician licensed to practice medicine in the state of New York OR A PHYSICIAN ASSISTANT UNDER THE DIRECT SUPERVISION OF SUCH A LICENSED PHYSICIAN may render emergency medical care under this chapter without authorization by the chair under this section; and

(b) A licensed physician who is a member of a constituted medical staff of any hospital OR A PHYSICIAN ASSISTANT UNDER THE DIRECT SUPERVISION OF SUCH A LICENSED PHYSICIAN, may render medical care under this chapter while an injured employee remains a patient in such hospital; and

(c) CONSISTENT WITH ARTICLE THIRTY-SEVEN OF THE PUBLIC HEALTH LAW AND ARTICLE ONE HUNDRED THIRTY-ONE-B OF THE EDUCATION LAW, MEDICAL CARE MAY BE RENDERED BY A PHYSICIAN ASSISTANT UNDER THE DIRECT SUPERVISION OF A LICENSED AUTHORIZED PHYSICIAN. Under the active and personal supervision of an authorized physician medical care may be rendered by a registered nurse or other person trained in laboratory or diagnostic techniques within the scope of such person's specialized training and qualifications. This supervision shall be evidenced by signed records of instructions for treatment and signed records of the patient's condition and progress. Reports of such treatment and supervision shall be made by such physician to the chair on such forms and at such times as the chair may require.

S 32. Paragraph (d) of subdivision 3 of section 13-c of the workers' compensation law, as added by chapter 828 of the laws of 1975, subparagraph (ii) as amended and subparagraph (iii) as added by chapter 803 of the laws of 1983, and subparagraph (iv) as added and subparagraph (v) as renumbered by chapter 649 of the laws of 1985, is amended to read as follows:

(d) (i) A physician rendering medical care at a medical center authorized, OR A PHYSICIAN ASSISTANT UNDER THE DIRECT SUPERVISION OF SUCH A PHYSICIAN, hereunder must be authorized to render such care pursuant to this chapter and he OR SHE shall limit his OR HER professional activ-

ities hereunder to such medical care as his OR HER experience and training qualify him OR HER to render.

(ii) When para-medical, laboratory or X-ray services or other medical care is required it shall be rendered, under the active and personal supervision of an authorized physician, by a registered nurse or other person trained in laboratory or diagnostic techniques within the scope of such person's specialized training and qualifications. This supervision shall be evidenced by signed records of instructions for treatment and signed records of the patient's condition and progress. Reports of such treatment and supervision shall be made by such physician to the chairman on such forms and at such times as the chairman may require.

(iii) When physical therapy care is required it shall be rendered by a duly licensed physical therapist upon the referral which may be directive as to treatment of an authorized physician, PHYSICIAN ASSISTANT UNDER THE DIRECT SUPERVISION OF SUCH PHYSICIAN or podiatrist within the scope of such physical therapist's specialized training and qualifications as defined in article one hundred thirty-six of the education law. Reports of such treatment and records of instruction for treatment, if any, shall be maintained by the physical therapist and referring professional and submitted to the chairman on such forms and at such times as the chairman may require.

(iv) When occupational therapy care is required it shall be rendered by a duly licensed and registered occupational therapist upon the prescription or referral of an authorized physician OR PHYSICIAN ASSISTANT UNDER THE DIRECT SUPERVISION OF SUCH PHYSICIAN within the scope of such occupational therapist's specialized training and qualifications as defined in article one hundred fifty-six of the education law. Reports of such treatment and records of instruction for treatment, if any, shall be maintained by the occupational therapist and referring professional and submitted to the chairman on such forms and at such times as the chairman may require.

(v) The physician rendering the medical care hereunder shall be in charge of the care unless, in his OR HER judgment, it is necessary to refer the case to a specially trained and qualified physician, which physician shall then assume complete responsibility for and supervision of any further medical care rendered.

S 33. Subdivisions (d), (e) and (f) of section 33.04 of the mental hygiene law, subdivisions (d) and (f) as added by chapter 779 of the laws of 1977, such section as renumbered and subdivision (e) as amended by chapter 334 of the laws of 1980, are amended to read as follows:

(d) Restraint shall be effected only by written order of a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN after a personal examination of the patient except in an emergency situation, as provided by subdivision (e) of this section. The order shall set forth the facts justifying the restraint and shall specify the nature of the restraint and any conditions for maintaining the restraint. The order shall also set forth the time of expiration of the authorization, with such order to apply for a period of no more than four hours, provided, however, that any such order imposing restraint after nine o'clock p.m. may extend until nine o'clock a.m. of the next day. A full record of restraint, including all signed orders of physicians, shall be kept in the patient's file and shall be subject to inspection by authorized persons.

(e) If an emergency situation exists in which the patient is engaging in activity that presents an immediate danger to himself, HERSELF or others and a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF

SUCH PHYSICIAN is not immediately available, restraint may be effected only to the extent necessary to prevent the patient from injuring himself or others at the direction of the senior member of the staff who is present. The senior staff member shall cause a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN to be immediately summoned and shall record the time of the call and the person contacted. Pending the arrival of a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN, the patient shall be kept under constant supervision. If a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN does not arrive within thirty minutes of being summoned, the senior staff member shall record any such delay in the patient's clinical record and also place into the patient's clinical record a written description of the facts justifying the emergency restraint which shall specify the nature of the restraint and any conditions for maintaining the restraint until the arrival of a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN, the reasons why less restrictive forms of restraint were not used, and a description of the steps taken to assure that the patient's needs, comfort and safety were properly cared for. Such physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN shall place in the clinical record an explanation for any such delay.

(f) During the time that a patient is in restraint, he OR SHE shall be monitored to see that his OR HER physical needs, comfort, and safety are properly cared for. An assessment of the patient's condition shall be made at least once every thirty minutes or at more frequent intervals as directed by a physician OR A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH PHYSICIAN. The assessment shall be recorded and placed in the patient's file. A patient in restraint shall be released from restraint at least every two hours, except when asleep. If at any time a patient upon being released from restraint makes no overt gestures that would threaten serious harm or injury to himself, HERSELF or others, restraint shall not be reimposed and a physician shall be immediately notified. Restraint shall not be reimposed in such situation unless in the physician's OR A PHYSICIAN ASSISTANT'S UNDER THE SUPERVISION OF SUCH PHYSICIAN professional judgment release would be harmful to the patient or others.

S 34. Paragraph e of subdivision 1 of section 406 of the general business law, as amended by chapter 600 of the laws of 2002, is amended to read as follows:

e. Each application shall be accompanied by a certificate of a duly licensed physician, A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF SUCH A PHYSICIAN or nurse practitioner to the extent authorized by law and consistent with the written practice agreement pursuant to subdivision three of section six thousand nine hundred two of the education law on a form prescribed by the secretary, showing freedom from any infectious or communicable disease which certificate shall have been issued within thirty days prior to the date of the filing of the application.

S 35. This act shall take effect immediately.