

7521--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

May 23, 2013

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Introduced by M. of A. McDONALD, WEPRIN, RA -- Multi-Sponsored by -- M. of A. BRENNAN, SCHIMEL -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to authorizing pharmacists to perform collaborative drug therapy management, and to amend chapter 21 of the laws of 2011 amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to making such provisions permanent

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

1     Section 1. Section 6801-a of the education law, as added by chapter 21  
2     of the laws of 2011, is amended to read as follows:  
3     S 6801-a. Collaborative drug therapy management [demonstration  
4     program]. 1. As used in this section, the following terms shall have  
5     the following meanings:  
6     a. "CLINICAL SERVICES" SHALL MEAN THE REVIEW, EVALUATION AND MANAGE-  
7     MENT OF DRUG THERAPY TO A PATIENT.  
8     B. "Collaborative drug therapy management" shall mean the performance  
9     of CLINICAL services by a pharmacist relating to the review, evaluation  
10    and management of drug therapy to a patient, who is being treated by a  
11    physician, PHYSICIAN ASSISTANT OR NURSE PRACTITIONER for a specific  
12    disease or disease [state] STATES, in accordance with a written agree-  
13    ment or protocol with a voluntarily participating physician, PHYSICIAN  
14    ASSISTANT, NURSE PRACTITIONER OR FACILITY and in accordance with the  
15    policies, procedures, and protocols of [the] A facility OR PRACTICE.  
16    Such agreement or protocol as entered into by the physician, PHYSICIAN

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

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1 ASSISTANT OR NURSE PRACTITIONER and a pharmacist, may include[, and  
2 shall be limited to]:

3 (i) [adjusting or managing] PRESCRIBING IN ORDER TO ADJUST OR MANAGE a  
4 drug regimen of a patient, pursuant to a patient specific [written]  
5 order, or NON-PATIENT-SPECIFIC protocol made by the patient's physician,  
6 PHYSICIAN ASSISTANT, NURSE PRACTITIONER, OR FACILITY, which may include  
7 adjusting drug strength, frequency of administration or route of admin-  
8 istration[. Adjusting the drug regimen shall not include substituting or  
9 selecting a different] OR SELECTING A drug which differs from that  
10 initially prescribed by the patient's physician [unless such substi-  
11 tution is expressly], PHYSICIAN ASSISTANT OR NURSE PRACTITIONER AS  
12 authorized in the written order or protocol. The pharmacist shall be  
13 required to [immediately enter into] DOCUMENT IN the patient record [any  
14 change or] changes made to the patient's drug therapy and shall use any  
15 reasonable means or method established by the facility or [the depart-  
16 ment] PRACTICE to notify [any of] the patient's other treating physi-  
17 cians [with whom he or she does not have a written agreement or protocol  
18 regarding such changes. The patient's physician may prohibit, by written  
19 instruction, any adjustment or change in the patient's drug regimen by  
20 the pharmacist], PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS AND OTHER  
21 PROFESSIONALS AS REQUIRED BY THE FACILITY OR THE COLLABORATIVE PRACTICE  
22 AGREEMENT;

23 (ii) evaluating and, [only if specifically] AS authorized by the  
24 protocol and only to the extent necessary to discharge the responsibil-  
25 ities set forth in this section, ordering [clinical] DISEASE STATE labo-  
26 ratory tests related to the drug therapy management for the specific  
27 disease or disease [state] STATES specified within the protocol; and

28 (iii) [only if specifically] AS authorized by the protocol and only to  
29 the extent necessary to discharge the responsibilities set forth in this  
30 section, ordering or performing routine patient monitoring functions as  
31 may be necessary in the drug therapy management[, including the collect-  
32 ing and reviewing of patient histories, and ordering or checking patient  
33 vital signs, including pulse, temperature, blood pressure and respira-  
34 tion].

35 [b.] C. "Written agreement or protocol" shall mean a written document,  
36 pursuant to and consistent with any applicable state or federal require-  
37 ments, that addresses a specific disease or disease [state] STATES and  
38 that describes the nature and scope of collaborative drug therapy  
39 management to be undertaken by the pharmacist, in collaboration with the  
40 participating physician, PHYSICIAN ASSISTANT, NURSE PRACTITIONER OR  
41 FACILITY, in accordance with the provisions of this section.

42 [c.] D. "Physician, PHYSICIAN ASSISTANT OR NURSE PRACTITIONER" shall  
43 mean the physician, PHYSICIAN ASSISTANT OR NURSE PRACTITIONER, selected  
44 by or assigned to a patient, who has primary responsibility for the  
45 treatment and care of the patient for the disease or disease state that  
46 is the subject of the collaborative drug therapy management.

47 [d.] E. "Facility" shall mean a [teaching] hospital, [including any]  
48 diagnostic center, treatment center, or hospital-based outpatient  
49 department, [however, for the purposes of this section,] residential  
50 health care facilities [and] OR nursing [homes shall be excluded] HOME  
51 OR ANY FACILITY AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THE  
52 PUBLIC HEALTH LAW OR OTHER ENTITY THAT PROVIDES DIRECT PATIENT CARE  
53 UNDER THE AUSPICES OF A MEDICAL DIRECTOR. IN ADDITION, A PRACTICE SHALL  
54 MEAN A PLACE OR SITUATION IN WHICH PHYSICIANS, PHYSICIAN ASSISTANTS AND  
55 NURSE PRACTITIONERS EITHER ALONE OR IN GROUP PRACTICES PROVIDE DIAGNOS-  
56 TIC AND TREATMENT CARE FOR PATIENTS. [For the purposes of this section,

1 a "teaching hospital" shall mean a hospital licensed pursuant to article  
2 twenty-eight of the public health law that is eligible to receive direct  
3 or indirect graduate medical education payments pursuant to article  
4 twenty-eight of the public health law.]

5 2. a. A pharmacist who meets the experience requirements of paragraph  
6 b of this subdivision and who is [employed by or otherwise affiliated  
7 with a facility] CERTIFIED BY THE DEPARTMENT TO ENGAGE IN COLLABORATIVE  
8 DRUG THERAPY MANAGEMENT AND WHO IS EITHER EMPLOYED BY OR OTHERWISE  
9 AFFILIATED WITH A FACILITY OR IS PARTICIPATING WITH A PRACTICING PHYSI-  
10 CIAN, PHYSICIAN ASSISTANT OR NURSE PRACTITIONER shall be permitted to  
11 enter into a written agreement or protocol with a physician, PHYSICIAN  
12 ASSISTANT, NURSE PRACTITIONER OR FACILITY authorizing collaborative drug  
13 therapy management, subject to the limitations set forth in this  
14 section, within the scope of such employment [or], affiliation OR  
15 PARTICIPATION. ONLY PHARMACISTS SO CERTIFIED MAY ENGAGE IN COLLABORA-  
16 TIVE DRUG THERAPY MANAGEMENT AS DEFINED IN THIS SECTION.

17 b. A participating pharmacist must:

18 (i)(A) [have been awarded either a master of science in clinical phar-  
19 macy or a doctor of pharmacy degree;

20 (B)] maintain a current unrestricted license; and

21 [(C) have a minimum of two years experience, of which at least one  
22 year of such experience shall include clinical experience in a health  
23 facility, which involves consultation with physicians with respect to  
24 drug therapy and may include a residency at a facility involving such  
25 consultation; or

26 (ii)(A) have been awarded a bachelor of science in pharmacy;

27 (B) maintain a current unrestricted license; and

28 (C) within the last seven years, have a minimum of three years experi-  
29 ence, of which at least one year of such experience shall include clin-  
30 ical experience in a health facility, which involves consultation with  
31 physicians with respect to drug therapy and may include a residency at a  
32 facility involving such consultation.

33 c.] (B) SATISFY ANY TWO OF THE FOLLOWING CRITERIA:

34 (I) CERTIFICATION IN A RELEVANT AREA OF PRACTICE INCLUDING BUT NOT  
35 LIMITED TO AMBULATORY CARE, CRITICAL CARE, GERIATRIC PHARMACY, NUCLEAR  
36 PHARMACY, NUTRITION SUPPORT PHARMACY, ONCOLOGY PHARMACY, PEDIATRIC PHAR-  
37 MACY, PHARMACOTHERAPY, OR PSYCHIATRIC PHARMACY, FROM A NATIONAL ACCRED-  
38 ITING BODY AS APPROVED BY THE DEPARTMENT;

39 (II) POSTGRADUATE RESIDENCY THROUGH AN ACCREDITED POSTGRADUATE PROGRAM  
40 REQUIRING AT LEAST FIFTY PERCENT OF THE EXPERIENCE BE IN DIRECT PATIENT  
41 CARE SERVICES WITH INTERDISCIPLINARY TERMS; OR

42 (III) HAVE PROVIDED CLINICAL SERVICES TO PATIENTS FOR AT LEAST ONE  
43 YEAR EITHER:

44 (A) UNDER A COLLABORATIVE PRACTICE AGREEMENT OR PROTOCOL WITH A PHYSI-  
45 CIAN, PHYSICIAN ASSISTANT, NURSE PRACTITIONER OR FACILITY; OR

46 (B) HAS DOCUMENTED EXPERIENCE IN PROVISION OF CLINICAL SERVICES TO  
47 PATIENTS FOR AT LEAST ONE YEAR OR ONE THOUSAND HOURS, AND DEEMED ACCEPT-  
48 ABLE TO THE DEPARTMENT UPON RECOMMENDATION OF THE BOARD OF PHARMACY.

49 (C) NOTWITHSTANDING ANY PROVISION OF LAW, NOTHING IN THIS SECTION  
50 SHALL PROHIBIT A LICENSED PHARMACIST FROM ENGAGING IN CLINICAL PRACTICE  
51 ASSOCIATED WITH COLLABORATIVE DRUG THERAPY MANAGEMENT, IN ORDER TO GAIN  
52 EXPERIENCE NECESSARY TO QUALIFY UNDER ITEM (B) OF CLAUSE (III) OF THIS  
53 SUBPARAGRAPH, PROVIDED THAT SUCH PRACTICE IS UNDER THE SUPERVISION OF A  
54 PHARMACIST THAT CURRENTLY MEETS THE REFERENCED REQUIREMENT, AND THAT  
55 SUCH PRACTICE IS AUTHORIZED UNDER THE COLLABORATIVE DRUG THERAPY MANAGE-

MENT PROTOCOL WITH THE INVOLVED PHYSICIAN, PHYSICIAN ASSISTANT, NURSE PRACTITIONER OR FACILITY.

3. Notwithstanding any provision of this section, nothing herein shall authorize the pharmacist to diagnose disease. In the event that a treating physician, PHYSICIAN ASSISTANT OR NURSE PRACTITIONER may disagree with the exercise of professional judgment by the pharmacist, the judgment of the treating physician, PHYSICIAN ASSISTANT OR NURSE PRACTITIONER shall prevail.

[3. The physician who is a party to a written agreement or protocol authorizing collaborative drug therapy management shall be employed by or otherwise affiliated with the same facility with which the pharmacist is also employed or affiliated.

4. The existence of a written agreement or protocol on collaborative drug therapy management and the patient's right to choose to not participate in collaborative drug therapy management shall be disclosed to any patient who is eligible to receive collaborative drug therapy management. Collaborative drug therapy management shall not be utilized unless the patient or the patient's authorized representative consents, in writing, to such management. If the patient or the patient's authorized representative consents, it shall be noted on the patient's medical record. If the patient or the patient's authorized representative who consented to collaborative drug therapy management chooses to no longer participate in such management, at any time, it shall be noted on the patient's medical record. In addition, the existence of the written agreement or protocol and the patient's consent to such management shall be disclosed to the patient's primary physician and any other treating physician or healthcare provider.]

4. A PHARMACIST WHO IS CERTIFIED BY THE DEPARTMENT TO ENGAGE IN COLLABORATIVE DRUG THERAPY MANAGEMENT MAY ENTER INTO A WRITTEN COLLABORATIVE PRACTICE AGREEMENT OR PROTOCOL WITH A PHYSICIAN, PHYSICIAN ASSISTANT, NURSE PRACTITIONER OR PRACTICE AS AN INDEPENDENT HEALTH CARE PROVIDER OR AS AN EMPLOYEE OF A PHARMACY OR OTHER HEALTH CARE PROVIDER. IN A FACILITY, THE PHYSICIAN, PHYSICIAN ASSISTANT OR NURSE PRACTITIONER AND THE PHARMACIST WHO ARE PARTIES TO A WRITTEN AGREEMENT OR PROTOCOL AUTHORIZING COLLABORATIVE DRUG THERAPY MANAGEMENT SHALL BE EMPLOYED BY OR BE OTHERWISE AFFILIATED WITH THE FACILITY.

5. Participation in a written agreement or protocol authorizing collaborative drug therapy management shall be voluntary, and no patient, physician, [pharmacist, or] PHYSICIAN ASSISTANT, NURSE PRACTITIONER, facility OR PHARMACIST shall be required to participate.

[6. Nothing in this section shall be deemed to limit the scope of practice of pharmacy nor be deemed to limit the authority of pharmacists and physicians to engage in medication management prior to the effective date of this section and to the extent authorized by law.]

S 2. Section 5 of chapter 21 of the laws of 2011, amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, is amended to read as follows:

S 5. This act shall take effect on the one hundred twentieth day after it shall have become a law [and shall expire 3 years after such effective date when upon such date the provisions of this act shall be deemed repealed]; provided, however, that the amendments to subdivision 1 of section 6801 of the education law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 8 of chapter 563 of the laws of 2008, when upon such date the provisions of section one-a of this act shall take effect; provided,

1 further, that effective immediately, the addition, amendment and/or  
2 repeal of any rule or regulation necessary for the implementation of  
3 this act on its effective date is authorized and directed to be made and  
4 completed on or before such effective date.  
5 S 3. This act shall take effect immediately, provided that section one  
6 of this act shall take effect on the one hundred twentieth day after it  
7 shall have become a law; provided, further, that, effective immediately,  
8 the addition, amendment and/or repeal of any rule or regulation neces-  
9 sary for the implementation of this act on its effective date is author-  
10 ized and directed to be made and completed on or before such effective  
11 date.