

5400

2013-2014 Regular Sessions

I N   S E N A T E

May 16, 2013

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Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to including nurse practitioners as a provider of services for purposes of 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 the authorization for pharmacists to perform collaborative drug therapy management 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 the  
5     following meanings:  
6     a. "Collaborative drug therapy management" shall mean the performance  
7     of services by a pharmacist relating to the review, evaluation and  
8     management of drug therapy to a patient, who is being treated by a  
9     physician OR NURSE PRACTITIONER for a specific disease or disease state,  
10    in accordance with a written agreement or protocol with a voluntarily  
11    participating physician OR NURSE PRACTITIONER and in accordance with the  
12    policies, procedures, and protocols of the facility. Such agreement or  
13    protocol as entered into by the physician OR NURSE PRACTITIONER and a  
14    pharmacist, may include, and shall be limited to:  
15    (i) adjusting or managing a drug regimen of a patient, pursuant to a  
16    patient specific written order or protocol made by the patient's physi-  
17    cian OR NURSE PRACTITIONER, which may include adjusting drug strength,  
18    frequency of administration or route of administration. Adjusting the  
19    drug regimen shall not include substituting or selecting a different  
20    drug which differs from that initially prescribed by the patient's

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

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1 physician OR NURSE PRACTITIONER unless such substitution is expressly  
2 authorized in the written order or protocol. The pharmacist shall be  
3 required to immediately enter into the patient record any change or  
4 changes made to the patient's drug therapy and shall use any reasonable  
5 means or method established by the facility or the department to notify  
6 any of the patient's other treating physicians OR NURSE PRACTITIONERS  
7 with whom he or she does not have a written agreement or protocol  
8 regarding such changes. The patient's physician OR NURSE PRACTITIONER  
9 may prohibit, by written instruction, any adjustment or change in the  
10 patient's drug regimen by the pharmacist;

11 (ii) evaluating and, only if specifically authorized by the protocol  
12 and only to the extent necessary to discharge the responsibilities set  
13 forth in this section, ordering clinical laboratory tests related to the  
14 drug therapy management for the specific disease or disease state speci-  
15 fied within the protocol; and

16 (iii) only if specifically authorized by the protocol and only to the  
17 extent necessary to discharge the responsibilities set forth in this  
18 section, ordering or performing routine patient monitoring functions as  
19 may be necessary in the drug therapy management, including the collect-  
20 ing and reviewing of patient histories, and ordering or checking patient  
21 vital signs, including pulse, temperature, blood pressure and respira-  
22 tion.

23 b. "Written agreement or protocol" shall mean a written document,  
24 pursuant to and consistent with any applicable state or federal require-  
25 ments, that addresses a specific disease or disease state and that  
26 describes the nature and scope of collaborative drug therapy management  
27 to be undertaken by the pharmacist, in collaboration with the partic-  
28 ipating physician OR NURSE PRACTITIONER, in accordance with the  
29 provisions of this section.

30 c. "Physician OR NURSE PRACTITIONER" shall mean the physician OR NURSE  
31 PRACTITIONER, selected by or assigned to a patient, who has primary  
32 responsibility for the treatment and care of the patient for the disease  
33 or disease state that is the subject of the collaborative drug therapy  
34 management.

35 d. "Facility" shall mean a [teaching] hospital, [including any diag-  
36 nostic center, treatment center, or hospital-based outpatient depart-  
37 ment, however, for the purposes of this section, residential health care  
38 facilities and nursing homes shall be excluded] AS DEFINED BY SUBDIVI-  
39 SION ONE OF SECTION TWENTY-EIGHT HUNDRED ONE OF THE PUBLIC HEALTH LAW.  
40 [For the purposes of this section, a "teaching hospital" shall mean a  
41 hospital licensed pursuant to article twenty-eight of the public health  
42 law that is eligible to receive direct or indirect graduate medical  
43 education payments pursuant to article twenty-eight of the public health  
44 law.] IN ADDITION, A FACILITY MAY ALSO INCLUDE UP TO FIFTEEN COMMUNITY-  
45 PRACTICE SITES, SELECTED BY THE DEPARTMENT IN CONSULTATION WITH THE  
46 DEPARTMENT OF HEALTH, WHERE PHARMACISTS AND PHYSICIANS OR NURSE PRACTI-  
47 TIONERS MAY PROPOSE TO ENTER INTO COLLABORATIVE ARRANGEMENTS, PURSUANT  
48 TO THE PROVISIONS OF THIS SECTION. SUCH SITES SHALL BE SELECTED BASED  
49 UPON A REVIEW OF APPLICATIONS SUBMITTED TO THE DEPARTMENT BY SUCH PHAR-  
50 MACISTS AND PHYSICIANS OR NURSE PRACTITIONERS, WHICH DEMONSTRATE THAT  
51 THE APPLICANTS CAN SATISFY THE REQUIREMENTS OF THIS SECTION.

52 2. a. A pharmacist who meets the experience requirements of paragraph  
53 b of this subdivision and who is EITHER employed by or otherwise affil-  
54 iated with a facility OR IS PARTICIPATING WITH A COMMUNITY-PRACTICE SITE  
55 SELECTED PURSUANT TO PARAGRAPH D OF SUBDIVISION ONE OF THIS SECTION  
56 shall be permitted to enter into a written agreement or protocol with a

1 physician OR NURSE PRACTITIONER authorizing collaborative drug therapy  
2 management, subject to the limitations set forth in this section, within  
3 the scope of such employment [or], affiliation OR PARTICIPATION.

4 b. A participating pharmacist must:

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

7 (B) maintain a current unrestricted license; and

8 (C) have a minimum of two years experience, of which at least one year  
9 of such experience shall include clinical experience in a health facili-  
10 ty, which involves consultation with physicians OR NURSE PRACTITIONERS  
11 with respect to drug therapy and may include a residency at a facility  
12 involving such consultation; or

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

14 (B) maintain a current unrestricted license; and

15 (C) within the last seven years, have a minimum of three years experi-  
16 ence, of which at least one year of such experience shall include clin-  
17 ical experience in a health facility, which involves consultation with  
18 physicians OR NURSE PRACTITIONERS with respect to drug therapy and may  
19 include a residency at a facility involving such consultation.

20 c. Notwithstanding any provision of this section, nothing herein shall  
21 authorize the pharmacist to diagnose disease. In the event that a treat-  
22 ing physician OR NURSE PRACTITIONER may disagree with the exercise of  
23 professional judgment by the pharmacist, the judgment of the treating  
24 physician OR NURSE PRACTITIONER shall prevail.

25 3. The physician OR NURSE PRACTITIONER who is a party to a written  
26 agreement or protocol authorizing collaborative drug therapy management  
27 IN A FACILITY SETTING shall be employed by or otherwise affiliated with  
28 the same facility with which the pharmacist is also employed or affil-  
29 iated.

30 4. The existence of a written agreement or protocol on collaborative  
31 drug therapy management and the patient's right to choose to not partic-  
32 ipate in collaborative drug therapy management shall be disclosed to any  
33 patient who is eligible to receive collaborative drug therapy manage-  
34 ment. Collaborative drug therapy management shall not be utilized unless  
35 the patient or the patient's authorized representative consents, in  
36 writing, to such management. If the patient or the patient's authorized  
37 representative consents, it shall be noted on the patient's medical  
38 record. If the patient or the patient's authorized representative who  
39 consented to collaborative drug therapy management chooses to no longer  
40 participate in such management, at any time, it shall be noted on the  
41 patient's medical record. In addition, the existence of the written  
42 agreement or protocol and the patient's consent to such management shall  
43 be disclosed to the patient's primary physician OR NURSE PRACTITIONER  
44 and any other treating physician OR NURSE PRACTITIONER or healthcare  
45 provider.

46 5. Participation in a written agreement or protocol authorizing colla-  
47 borative drug therapy management shall be voluntary, and no patient,  
48 physician, NURSE PRACTITIONER, pharmacist, or facility shall be required  
49 to participate.

50 6. Nothing in this section shall be deemed to limit the scope of prac-  
51 tice of pharmacy nor be deemed to limit the authority of pharmacists and  
52 physicians OR NURSE PRACTITIONERS to engage in medication management  
53 prior to the effective date of this section and to the extent authorized  
54 by law.

55 S 2. Section 5 of chapter 21 of the laws of 2011 amending the educa-  
56 tion law relating to authorizing pharmacists to perform collaborative

1 drug therapy management with physicians in certain settings is amended  
2 to read as follows:

3 S 5. This act shall take effect on the one hundred twentieth day after  
4 it shall have become a law [and shall expire 3 years after such effec-  
5 tive date when upon such date the provisions of this act shall be deemed  
6 repealed]; provided, however, that the amendments to subdivision 1 of  
7 section 6801 of the education law made by section one of this act shall  
8 be subject to the expiration and reversion of such subdivision pursuant  
9 to section 8 of chapter 563 of the laws of 2008, when upon such date the  
10 provisions of section one-a of this act shall take effect; provided,  
11 further, that effective immediately, the addition, amendment and/or  
12 repeal of any rule or regulation necessary for the implementation of  
13 this act on its effective date is authorized and directed to be made and  
14 completed on or before such effective date.

15 S 3. This act shall take effect on the one hundred twentieth day after  
16 it shall have become a law; provided that, effective immediately, the  
17 addition, amendment and/or repeal of any rule or regulation necessary  
18 for the implementation of this act on its effective date is authorized  
19 and directed to be made and completed on or before such effective date.