AN ACT to amend the education law, in relation to the registration and certification of pharmacy technicians

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

Section 1. The education law is amended by adding a new section 6805-a to read as follows:

§ 6805-a. REQUIREMENTS FOR REGISTRATION OR CERTIFICATION AS A PHARMACY TECHNICIAN. 1. ANY INDIVIDUAL EMPLOYED IN A PHARMACY WHO DIRECTLY ASSISTS LICENSED PHARMACISTS TO DISPENSE PRESCRIPTIONS OR HAS AUTHORITY TO ADD OR TO MODIFY PRESCRIPTION RECORDS MAINTAINED IN THE PHARMACY COMPUTER SYSTEM AND WHO HAS ACCESS TO PRESCRIPTION DRUGS SHALL BE A REGISTERED PHARMACY TECHNICIAN.

2. A REGISTERED PHARMACY TECHNICIAN SHALL FULFILL THE FOLLOWING REQUIREMENTS:

A. APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT.

B. EDUCATION: HAVE RECEIVED AN EDUCATION, INCLUDING, AT A MINIMUM, A HIGH SCHOOL OR A GENERAL EQUIVALENCY DIPLOMA OR WHO IS ENROLLED IN A COURSE OF STUDY LEADING TOWARD A HIGH SCHOOL OR GENERAL EQUIVALENCY DIPLOMA.

C. AGE: BE AT LEAST SEVENTEEN YEARS OF AGE.

D. CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT, WHICH SHALL INCLUDE A CRIMINAL BACKGROUND CHECK THAT INDICATES THAT THE APPLICANT HAS NO DRUG-RELATED FELONY CONVICTIONS OR, IF THE APPLICANT HAS SUCH A CONVICTION, THAT NO CERTIFICATE UNDER ARTICLE TWENTY-THREE OF THE CORRECTIONS LAW HAS BEEN ISSUED CONCOMITANTLY OR SUBSEQUENTLY TO THE APPLICANT HAVING SUCH CONVICTION; AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.
E. Fee: Pay a triennial registration fee established in regulation by the Board. Such fee shall be maintained in a dedicated fund to support the regulation of the professions by the Department.

F. As a condition of employment as a registered pharmacy technician, an individual shall have a current valid registration as a pharmacy technician issued by the Department or shall have completed the application process. Such individual shall provide evidence of registration or evidence that the application has been received by the Department.

G. An individual employed in a pharmacy as of the effective date of this section who directly assists licensed pharmacists to dispense prescriptions, who meets the qualifications set forth in this section for registered technicians with the exception of having a high school or general equivalency diploma, and who submits evidence verified by his or her employer of a minimum of five years of employment in good standing with the employer may be eligible for a waiver approved by the Department, in consultation with the State Board of Pharmacy, upon good cause shown as determined by the Department, from the educational requirements herein.

3. Any individual employed in a pharmacy located within a facility licensed in accordance with the provisions of Article Twenty-Eight of the Public Health Law or who is employed by a facility that is engaged in the compounding or preparation of drugs on behalf of facilities licensed in accordance with the provisions of Article Twenty-Eight of the Public Health Law and who directly assists licensed pharmacists to dispense prescriptions or medication orders or has authority to add to or to modify prescription records maintained in the pharmacy computer system and who has access to prescription drugs shall be a certified pharmacy technician. An individual who is assisting in the compounding of medications under the direct supervision of a licensed pharmacist shall be a certified pharmacy technician in any authorized setting, including, but not limited to, facilities authorized pursuant to Section Sixty-Eight Hundred Thirty-One of this Article.

4. A certified pharmacy technician shall fulfill the following requirements:

A. Application: File an application with the Department.

B. Education: Have received an education, including high school or a general equivalency diploma and have completed requirements necessary to qualify for and maintain current valid certification status, including continuing education requirements as may apply, from a nationally accredited independent certifying body including but not limited to the Pharmacy Technician Certification Board, the Institute for the Certification of Pharmacy Technicians, and any other nationally accredited independent certifying body as may be satisfactory to the Department and approved in accordance with the regulations of the Commissioner.

C. Age: Be at least eighteen years of age.

D. Character: Be of good moral character as determined by the Department which shall include a criminal background check that indicates that the applicant has no drug-related felony convictions or if the applicant has such a conviction, that no certificate under Article Twenty-Three of the Corrections Law has been issued concomitantly or subsequently to the applicant having such conviction; and

E. Fee: Pay a triennial registration fee established in regulation by the Board. Such fee shall be maintained in a dedicated fund to support the regulation of the professions by the Department.

F. As a condition of employment as a certified pharmacy technician, an individual shall have a current valid certification issued by the
DEPARTMENT OR SHALL HAVE COMPLETED THE APPLICATION PROCESS. SUCH INDIVIDUAL SHALL PROVIDE EVIDENCE OF CERTIFICATION OR EVIDENCE THAT THE APPLICATION FOR CERTIFICATION HAS BEEN RECEIVED BY THE DEPARTMENT.

G. A REGISTERED PHARMACY TECHNICIAN DIRECTLY ASSISTING LICENSED PHARMACISTS TO DISPENSE PRESCRIPTIONS WHO, AS OF THE EFFECTIVE DATE OF THIS SECTION, IS EMPLOYED IN A PHARMACY LOCATED WITHIN A FACILITY LICENSED IN ACCORDANCE WITH ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW AND WHO SUBMITS EVIDENCE, VERIFIED BY HIS OR HER EMPLOYER, OF A MINIMUM OF FIVE YEARS OF EMPLOYMENT WITHIN THE PREVIOUS EIGHT YEARS AS A REGISTERED PHARMACY TECHNICIAN IN GOOD STANDING AND WHO ATTEMPTED BUT DID NOT SUCCESSFULLY COMPLETE THE REQUIREMENTS NECESSARY TO QUALIFY FOR CERTIFICATION IN ACCORDANCE WITH THIS SECTION MAY CONTINUE TO BE EMPLOYED IN SUCH PHARMACY OR FACILITY WITHOUT BEING CERTIFIED IN ACCORDANCE WITH THESE PROVISIONS, PROVIDED THAT SUCH REGISTERED PHARMACY TECHNICIAN SHALL NOT BE PERMITTED TO ASSIST IN THE COMPOUNDING OF MEDICATIONS.

5. STUDENTS ENROLLED IN ACCREDITED PROGRAMS OF STUDY IN PHARMACY SHALL NOT BE REQUIRED TO REGISTER OR BE CERTIFIED AS PHARMACY TECHNICIANS.

6. STUDENTS ENROLLED IN PHARMACY TECHNICIAN EDUCATION OR TRAINING PROGRAMS LEADING TO CERTIFICATION, AS MAY BE APPROVED BY THE DEPARTMENT, SHALL NOT BE REQUIRED TO OBTAIN REGISTRATION OR CERTIFICATION AS A PHARMACY TECHNICIAN IN ORDER TO WORK IN A PHARMACY; PROVIDED, HOWEVER, THAT SUCH INDIVIDUALS SHALL BE SUBJECT TO A CRIMINAL BACKGROUND CHECK THAT INDICATES THAT THE APPLICANT HAS NO DRUG-RELATED FELONY CONVICTIONS; AND PROVIDED FURTHER THAT SUCH EXEMPTION FROM REGISTRATION OR CERTIFICATION SHALL BE LIMITED TO TWO YEARS. THE BOARD, IN ITS DISCRETION, MAY GRANT AN EXTENSION FOR ANY STUDENT ENROLLED IN AN APPROVED PROGRAM THAT EXCEEDS TWO YEARS.

7. FOR THE PURPOSES OF THIS SECTION "BOARD" SHALL MEAN THE STATE BOARD OF REGENTS.

8. FOLLOWING THE IMPLEMENTATION OF THE REGISTRATION AND CERTIFICATION REQUIREMENTS SET FORTH UNDER THIS SECTION, THE DEPARTMENT AND THE STATE BOARD OF PHARMACY SHALL CONSIDER AN ADJUSTMENT IN THE RATIO OF THE REGISTERED AND CERTIFIED PHARMACY TECHNICIANS DIRECTLY ASSISTING A LICENSED PHARMACIST TO DISPENSE PRESCRIPTIONS AND SHALL CONSIDER THE DELEGATED DUTIES, TASKS AND FUNCTIONS THAT MAY BE PERFORMED BY SUCH REGISTERED AND CERTIFIED TECHNICIANS AS SET FORTH IN REGULATIONS ESTABLISHED BY THE COMMISSIONER. REGISTERED AND CERTIFIED PHARMACY TECHNICIANS SHALL BE SUBJECT TO THE DIRECT SUPERVISION OF LICENSED PHARMACISTS AND SHALL HAVE NO INDEPENDENT AUTHORITY IN ACCORDANCE WITH REGULATIONS ESTABLISHED BY THE COMMISSIONER.

S 2. This act shall take effect one year after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.