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

4140

2015-2016 Regular Sessions

I N A S S E M B L Y

January 29, 2015

Introduced by M. of A. GOTTFRIED -- read once and referred to the Committee on Higher Education

AN ACT to amend the public health law, the education law, the general business law and the vehicle and traffic law, in relation to making conforming changes reflecting the previously authorized scope of practice of nurse practitioners

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

Section 1. 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 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 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

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

LBD06937-01-5

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 2. Subdivision 1 of section 579 of the public health law, as amended by chapter 444 of the laws of 2013, is amended to read as follows:

1. This title is applicable to all clinical laboratories and blood banks operating within the state, except clinical laboratories and blood banks operated by the federal government and clinical laboratories operated by a licensed physician, osteopath, dentist, midwife, nurse practitioner, optometrist performing a clinical laboratory test that does not use an invasive modality as defined in section seventy-one hundred one of the education law or podiatrist who performs laboratory tests or procedures, personally or through his or her employees, solely as an adjunct to the treatment of his or her own patients; to the extent authorized by federal and state law, including the education law[, and consistent with any applicable written practice agreement].

S 3. Paragraph a of subdivision 2 of section 902 of the education law, as amended by chapter 477 of the laws of 2004, is amended to read as follows:

a. The board of education, and the trustee or board of trustees of each school district, shall employ, at a compensation to be agreed upon by the parties, a qualified physician, or a nurse practitioner to the extent authorized by the nurse practice act and consistent with [the written practice agreement pursuant to] subdivision three of section six thousand nine hundred two of this chapter, to perform the duties of the director of school health services, including any duties conferred on the school physician or school medical inspector under any provision of law, to perform and coordinate the provision of health services in the public schools and to provide health appraisals of students attending the public schools in the city or district. The physicians or nurse practitioners so employed shall be duly licensed pursuant to applicable law.

S 4. Subdivision 1 of section 903 of the education law, as separately amended by section 11 of part B of chapter 58 and chapter 281 of the laws of 2007, is amended to read as follows:

1. A health certificate shall be furnished by each student in the public schools upon his or her entrance in such schools and upon his or her entry into the grades prescribed by the commissioner in regulations, provided that such regulations shall require such certificates at least twice during the elementary grades and twice in the secondary grades. An examination and health history of any child may be required by the local school authorities at any time in their discretion to promote the educational interests of such child. Each certificate shall be signed by a duly licensed physician, physician assistant, or nurse practitioner, who is authorized by law to practice in this state, and consistent with [any applicable written practice agreement] SUBDIVISION THREE OF SECTION SIX THOUSAND NINE HUNDRED TWO OF THIS CHAPTER, or by a duly licensed physician, physician assistant, or nurse practitioner, who is authorized to practice in the jurisdiction in which the examination was given, provided that the commissioner has determined that such jurisdiction has standards of licensure and practice comparable to those of New York. Each such certificate shall describe the condition of the student when the examination was made, which shall not be more than twelve months prior to the commencement of the school year in which the examination is required, and shall state whether such student is in a fit condition of health to permit his or her attendance at the public schools. Each such

certificate shall also state the student's body mass index (BMI) and weight status category. For purposes of this section, BMI is computed as the weight in kilograms divided by the square of height in meters or the weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703. Weight status categories for children and adolescents shall be as defined by the commissioner of health. In all school districts such physician, physician assistant or nurse practitioner shall determine whether a one-time test for sickle cell anemia is necessary or desirable and he or she shall conduct such a test and the certificate shall state the results.

S 5. 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, 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 6. Subdivision 3 of section 433 of the general business law, as added by chapter 801 of the laws of 1946, is amended to read as follows:

3. To require all persons licensed or registered under this article to submit to physical examination by a physician OR NURSE PRACTITIONER selected by the secretary of state.

S 7. Paragraph (c) of subdivision 1 of section 434 of the general business law, as amended by chapter 64 of the laws of 1988, is amended to read as follows:

(c) The certificate of a duly licensed physician OR NURSE PRACTITIONER, on a form prescribed by the secretary of state, 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 8. Subdivision 4 of section 404-a of the vehicle and traffic law, as amended by chapter 686 of the laws of 1994, the opening paragraph and paragraph (c) as amended by chapter 277 of the laws of 2012, is amended to read as follows:

4. Issue of plates. The commissioner shall issue sets of plates to such person in accordance with subdivision two of this section with proof of such disability of such person or such members of his or her family certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law[, including the education law,] and consistent with [any applicable written practice agreement] SUBDIVISION THREE OF SECTION SIX THOUSAND NINE HUNDRED TWO OF THE EDUCATION LAW, or podiatrist pursuant to subdivision four-a of this section or optometrist pursuant to subdivision four-b of this section, to the satisfaction of the commissioner who is empowered to carry out the effects of this section by formulating rules and regulations.

For the purposes of this section, a "severely disabled person" shall mean any person having any one or more of the following impairments, disabilities or conditions which are permanent in nature:

(a) Has limited or no use of one or both lower limbs;

(b) Has a neuro-muscular dysfunction which severely limits mobility;

(c) Has a physical or mental impairment or condition which is other than those specified above, but is of such nature as to impose unusual

hardship in utilization of public transportation facilities and such condition is certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law[, including the education law,] and consistent with [any applicable written practice agreement] SUBDIVISION THREE OF SECTION SIX THOUSAND NINE HUNDRED TWO OF THE EDUCATION LAW, duly licensed to practice [medicine] in this state, or, pursuant to subdivision four-a of this section, a podiatrist duly licensed to practice podiatry in this state or, pursuant to subdivision four-b of this section, an optometrist duly licensed to practice optometry in this state, as constituting an equal degree of disability (specifying the particular condition) so as to prevent such person from getting around without great difficulty in accordance with subdivision two of this section; or

(d) A blind person.

S 9. Paragraph (b) of subdivision 5 of section 404-a of the vehicle and traffic, as amended by chapter 277 of the laws of 2012, is amended to read as follows:

(b) The commissioner may require the applicant for registration to furnish such proof of his or her disability or such proof of disability of such members of his or her family from a physician, physician assistant or nurse practitioner, to the extent authorized by law[, including the education law,] and consistent with [any applicable written practice agreement] SUBDIVISION THREE OF SECTION SIX THOUSAND NINE HUNDRED TWO OF THE EDUCATION LAW, or podiatrist pursuant to subdivision four-a of this section or optometrist pursuant to subdivision four-b of this section, as the commissioner deems necessary either for initial registration or renewal thereof; provided, however, that a handicapped or disabled permit issued by a municipality to such applicant pursuant to section twelve hundred three-a of this chapter shall be deemed sufficient proof of disability for purposes of this paragraph.

S 10. Subdivision 1 of section 509-g of the vehicle and traffic law, as amended by chapter 149 of the laws of 2011, is amended to read as follows:

1. A biennial examination pursuant to regulations established by the commissioner, by a physician, a certified 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, or a registered physician assistant who is not the personal physician, nurse practitioner or physician assistant of the driver. Included shall be a requirement to conduct a vision test pursuant to regulations issued by the commissioner.

S 11. The amendments to the public health law, the education law, the general business law and the vehicle and traffic law enacted by this act shall not be construed to expand or contract the scope of practice of any health care professional under title 8 of the education law.

S 12. This act shall take effect immediately.