

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

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

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

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

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

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

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

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

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

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

1 shall be permitted to enter into a written agreement or protocol with a
2 physician OR NURSE PRACTITIONER authorizing collaborative drug therapy
3 management, subject to the limitations set forth in this section, within
4 the scope of such employment [or], affiliation OR PARTICIPATION.

5 b. A participating pharmacist must:

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

8 (B) maintain a current unrestricted license; and

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

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

15 (B) maintain a current unrestricted license; and

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

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

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

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

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

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

1 S 2. Section 5 of chapter 21 of the laws of 2011 amending the educa-
2 tion law relating to authorizing pharmacists to perform collaborative
3 drug therapy management with physicians in certain settings, as amended
4 by chapter 125 of the laws of 2014, is amended to read as follows:

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

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