

4857--A

2015-2016 Regular Sessions

I N S E N A T E

April 22, 2015

Introduced by Sens. LAVALLE, FUNKE, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- 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 extending such provisions

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. "BOARD" SHALL MEAN THE STATE BOARD OF PHARMACY AS ESTABLISHED BY
7 SECTION SIXTY-EIGHT HUNDRED FOUR OF THIS ARTICLE.

8 B. "CLINICAL SERVICES" SHALL MEAN THE COLLECTION AND INTERPRETATION
9 OF PATIENT DATA FOR THE PURPOSE OF INITIATING, MODIFYING AND MONITORING
10 DRUG THERAPY WITH ASSOCIATED ACCOUNTABILITY AND RESPONSIBILITY FOR
11 OUTCOMES IN A DIRECT PATIENT CARE SETTING.

12 C. "Collaborative drug therapy management" shall mean the performance
13 of CLINICAL services by a pharmacist relating to the review, evaluation
14 and management of drug therapy to a patient, who is being treated by a
15 physician for a specific disease or ASSOCIATED disease [state] STATES,
16 in accordance with a written agreement or protocol with a voluntarily
17 participating physician and in accordance with the policies, procedures,
18 and protocols of the facility. Such agreement or protocol as entered

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

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1 into by the physician and a pharmacist, may include, and shall be limit-
2 ed to:

3 (i) adjusting or managing a drug regimen of a patient, pursuant to a
4 patient specific [written] order or protocol made by the patient's
5 physician, which may include adjusting drug strength, frequency of
6 administration or route of administration. Adjusting the drug regimen
7 shall not include substituting or selecting a different drug which
8 differs from that initially prescribed by the patient's physician unless
9 such substitution is expressly authorized in the written order or proto-
10 col. The pharmacist shall be required to immediately [enter into] DOCU-
11 MENT IN the patient record [any change or] changes made to the patient's
12 drug therapy and shall use any reasonable means or method established by
13 the facility [or the department] to notify [any of] the patient's other
14 treating physicians with whom he or she does not have a written agree-
15 ment or protocol regarding such changes. The patient's physician may
16 prohibit, by written instruction, any adjustment or change in the
17 patient's drug regimen by the pharmacist;

18 (ii) evaluating and, only if specifically authorized by the protocol
19 and only to the extent necessary to discharge the responsibilities set
20 forth in this section, ordering [clinical] DISEASE STATE laboratory
21 tests related to the drug therapy management for the specific disease or
22 disease state specified within the WRITTEN AGREEMENT OR protocol; and

23 (iii) only if specifically authorized by the WRITTEN AGREEMENT OR
24 protocol and only to the extent necessary to discharge the responsibil-
25 ities set forth in this section, ordering or performing routine patient
26 monitoring functions as may be necessary in the drug therapy management,
27 including the collecting and reviewing of patient histories, and order-
28 ing or checking patient vital signs, including pulse, temperature, blood
29 pressure and respiration.

30 [b. "Written agreement or protocol" shall mean a written document,
31 pursuant to and consistent with any applicable state or federal require-
32 ments, that addresses a specific disease or disease state and that
33 describes the nature and scope of collaborative drug therapy management
34 to be undertaken by the pharmacist, in collaboration with the partic-
35 ipating physician, in accordance with the provisions of this section.

36 c. "Physician" shall mean the physician, selected by or assigned to a
37 patient, who has primary responsibility for the treatment and care of
38 the patient for the disease or disease state that is the subject of the
39 collaborative drug therapy management.]

40 d. "Facility" shall mean: (I) a teaching hospital OR GENERAL
41 HOSPITAL, including any diagnostic center, treatment center, or hospi-
42 tal-based outpatient department AS DEFINED IN SECTION TWENTY-EIGHT
43 HUNDRED ONE OF THE PUBLIC HEALTH LAW; OR (II) A NURSING HOME WITH AN
44 ON-SITE PHARMACY STAFFED BY A LICENSED PHARMACIST; PROVIDED, however,
45 for the purposes of this section THE TERM "FACILITY" SHALL NOT INCLUDE
46 DENTAL CLINICS, DENTAL DISPENSARIES, residential health care facilities
47 and [nursing homes shall be excluded] REHABILITATION CENTERS.

48 For the purposes of this section, a "teaching hospital" shall mean a
49 hospital licensed pursuant to article twenty-eight of the public health
50 law that is eligible to receive direct or indirect graduate medical
51 education payments pursuant to article twenty-eight of the public health
52 law.

53 E. "PHYSICIAN" SHALL MEAN THE PHYSICIAN SELECTED BY OR ASSIGNED TO A
54 PATIENT, WHO HAS PRIMARY RESPONSIBILITY FOR THE TREATMENT AND CARE OF
55 THE PATIENT FOR THE DISEASE AND ASSOCIATED DISEASE STATES THAT ARE THE
56 SUBJECT OF THE COLLABORATIVE DRUG THERAPY MANAGEMENT.

1 F. "WRITTEN AGREEMENT OR PROTOCOL" SHALL MEAN A WRITTEN DOCUMENT,
2 PURSUANT TO AND CONSISTENT WITH ANY APPLICABLE STATE OR FEDERAL REQUIRE-
3 MENTS, THAT ADDRESSES A SPECIFIC DISEASE OR ASSOCIATED DISEASE STATES
4 AND THAT DESCRIBES THE NATURE AND SCOPE OF COLLABORATIVE DRUG THERAPY
5 MANAGEMENT TO BE UNDERTAKEN BY THE PHARMACISTS, IN COLLABORATION WITH
6 THE PARTICIPATING PHYSICIAN IN ACCORDANCE WITH THE PROVISIONS OF THIS
7 SECTION.

8 2. a. A pharmacist who meets the experience requirements of paragraph
9 b of this subdivision and who is employed by or otherwise affiliated
10 with a facility shall be permitted to enter into a written agreement or
11 protocol with a physician authorizing collaborative drug therapy manage-
12 ment, subject to the limitations set forth in this section, within the
13 scope of such employment or affiliation.

14 b. A participating pharmacist must:

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

17 (B) maintain a current unrestricted license; and

18 (C) have a minimum of two years experience, of which at least one year
19 of such experience shall include clinical experience in a health facili-
20 ty, which involves consultation with physicians with respect to drug
21 therapy and may include a residency at a facility involving such consul-
22 tation; or

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

24 (B) maintain a current unrestricted license; and

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

30 (III) MEET ANY ADDITIONAL EDUCATION, EXPERIENCE, OR OTHER REQUIREMENTS
31 SET FORTH BY THE DEPARTMENT IN CONSULTATION WITH THE BOARD.

32 c. NOTWITHSTANDING ANY PROVISION OF LAW, NOTHING IN THIS SECTION SHALL
33 PROHIBIT A LICENSED PHARMACIST FROM ENGAGING IN CLINICAL SERVICES ASSO-
34 CIATED WITH COLLABORATIVE DRUG THERAPY MANAGEMENT, IN ORDER TO GAIN
35 EXPERIENCE NECESSARY TO QUALIFY UNDER CLAUSE (C) OF SUBPARAGRAPH (I) OR
36 (II) OF PARAGRAPH B OF THIS SUBDIVISION, PROVIDED THAT SUCH PRACTICE IS
37 UNDER THE SUPERVISION OF A PHARMACIST THAT CURRENTLY MEETS THE REFER-
38 ENCED REQUIREMENT, AND THAT SUCH PRACTICE IS AUTHORIZED UNDER THE WRIT-
39 TEN AGREEMENT OR PROTOCOL WITH THE PHYSICIAN.

40 D. Notwithstanding any provision of this section, nothing herein shall
41 authorize the pharmacist to diagnose disease. In the event that a treat-
42 ing physician may disagree with the exercise of professional judgment by
43 [the] A pharmacist, the judgment of the treating physician shall
44 prevail.

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

49 4. The existence of a written agreement or protocol on collaborative
50 drug therapy management and the patient's right to choose to not partic-
51 ipate in collaborative drug therapy management shall be disclosed to any
52 patient who is eligible to receive collaborative drug therapy manage-
53 ment. Collaborative drug therapy management shall not be utilized unless
54 the patient or the patient's authorized representative consents, in
55 writing, to such management. If the patient or the patient's authorized
56 representative consents, it shall be noted on the patient's medical

1 record. If the patient or the patient's authorized representative who
2 consented to collaborative drug therapy management chooses to no longer
3 participate in such management, at any time, it shall be noted on the
4 patient's medical record. In addition, the existence of the written
5 agreement or protocol and the patient's consent to such management shall
6 be disclosed to the patient's primary physician and any other treating
7 physician or healthcare provider.

8 5. Participation in a written agreement or protocol authorizing colla-
9 borative drug therapy management shall be voluntary, and no patient,
10 physician, pharmacist, or facility shall be required to participate.

11 6. Nothing in this section shall be deemed to limit the scope of prac-
12 tice of pharmacy nor be deemed to limit the authority of pharmacists and
13 physicians to engage in medication management prior to the effective
14 date of this section and to the extent authorized by law.

15 S 2. The department of education, in consultation with the department
16 of health, shall prepare or shall arrange for the preparation of a
17 report on the impact of collaborative drug therapy management (CDTM) in
18 New York state. The report shall be submitted to the speaker of the
19 assembly and the temporary president of the senate and the chairs of the
20 senate and assembly higher education committees at least four months
21 prior to the expiration of this act. The report shall review the extent
22 to which the continued application and expansion of CDTM contributed to
23 the following: (i) patient health-related outcomes; (ii) quality of care
24 for patients; (iii) reduced risk of medication error; (iv) health care
25 expenditures. The report may make recommendations regarding the exten-
26 sion, alteration and/or expansion of these provisions, which shall
27 include recommendations for addressing any barriers to further implemen-
28 tation of CDTM, and make any other recommendations related to the imple-
29 mentation of CDTM pursuant to this act.

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

34 S 5. This act shall take effect on the one hundred twentieth day after
35 it shall have become a law and shall expire [4] 7 years after such
36 effective date when upon such date the provisions of this act shall be
37 deemed repealed; provided, however, that the amendments to subdivision 1
38 of section 6801 of the education law made by section one of this act
39 shall be subject to the expiration and reversion of such subdivision
40 pursuant to section 8 of chapter 563 of the laws of 2008, when upon such
41 date the provisions of section one-a of this act shall take effect;
42 provided, further, that effective immediately, the addition, amendment
43 and/or repeal of any rule or regulation necessary for the implementation
44 of this act on its effective date is authorized and directed to be made
45 and completed on or before such effective date.

46 S 4. This act shall take effect immediately, provided that section one
47 of this act shall take effect on the ninetieth day after it shall have
48 become a law; provided that the amendments to section 6801-a of the
49 education law, made by section one of this act, shall not affect the
50 repeal of such section and shall be deemed repealed therewith; provided,
51 further, that, effective immediately, the addition, amendment and/or
52 repeal of any rule or regulation necessary for the implementation of
53 this act on its effective date is authorized and directed to be made and
54 completed on or before such effective date.