STATE OF NEW YORK

2718

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. GOTTFRIED -- Multi-Sponsored by -- M. of A. M. L. MILLER -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the social services law, in relation to the authority of nurse practitioners and physician assistants to prescribe certain services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 4, 5 and 14 of section 3602 of the public health law, subdivisions 4 and 5 as amended by chapter 376 of the laws of 2015, subdivision 14 as added by chapter 622 of the laws of 1988, 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**, nurse practitioner, or physician assistant, acting within his or her lawful scope of practice under title eight of the education law,** 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 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**, nurse practitioner, or physician assistant, acting within his or her lawful scope of practice under title eight of the education law,** in

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

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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 subdivision three of section six thousand nine hundred two of the education law and not prohibited by federal law or regulations.~~]

14. "AIDS home care program" means a coordinated plan of care and services provided at home to persons who are medically eligible for placement in a hospital or residential health care facility and who (a) are diagnosed by a physician as having acquired immune deficiency syndrome (AIDS), or (b) are deemed by a physician, [~~within his judgment,~~] **nurse practitioner, or physician assistant, acting within his or her lawful scope of practice under title eight of the education law,** to be infected with the etiologic agent of acquired immune deficiency syndrome, and who has an illness, infirmity or disability which can be reasonably ascertained to be associated with such infection. Such program shall be provided only by a provider of a long term home health care program specifically authorized pursuant to this article to provide an AIDS home care program or by an AIDS center, as defined in regulations promulgated by the commissioner, specifically authorized pursuant to this article to provide an AIDS home care program. Such program shall be provided in the person's home or in the home of a responsible relative, other responsible adult, adult care facilities specifically approved to admit or retain residents for such program, or in other residential settings as approved by the commissioner in conjunction with the commissioner of social services. Such program shall provide services including, but not be limited to, the full complement of health, social and environmental services provided by long term home health care programs in accordance with regulations promulgated by the commissioner. Such programs shall also provide such other services as required by the commissioner to assure appropriate care at home for persons eligible under this section.

§ 2. Paragraph (d) and subparagraph (i) of paragraph (e) of subdivision 2 of section 365-a of the social services law, paragraph (d) as amended by chapter 59 of the laws of 1993, subparagraph (i) of paragraph (e) as amended by section 36-a of part B of chapter 57 of the laws of 2015, are amended to read as follows:

(d) home health services provided in a recipient's home and prescribed by a physician**, nurse practitioner, or physician assistant, acting within his or her lawful scope of practice under title eight of the education law,** including services of a nurse provided on a part-time or intermittent basis rendered by an approved home health agency or if no such agency is available, by a registered nurse, licensed to practice in this state, acting under the written orders of a physician**, nurse practitioner, or physician assistant, acting within his or her lawful scope of practice under title eight of the education law,** and home health aide service by an individual or shared aide provided by an approved home health agency when such services are determined to be cost effective and appropriate to meet the recipient's needs for assistance subject to the [~~provisions~~] **provision** of [~~section three hundred sixty-seven-j and~~] section three hundred sixty-seven-o of this title**. The authority of a nurse practitioner or physician assistant to prescribe or order the providing of services under this paragraph shall not apply unless there would be federal financial participation for services so prescribed or ordered. The commissioner of health shall, if necessary to obtain such federal financial participation, apply for waiver or other authority**;

(i) personal care services, including personal emergency response services, shared aide and an individual aide, subject to the provisions of subparagraphs (ii), (iii), and (iv) of this paragraph, furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease, as determined to meet the recipient's needs for assistance when cost effective and appropriate, and when prescribed by a physician, **nurse practitioner, or physician assistant, acting within his or her lawful scope of practice under title eight of the education law,** in accordance with the recipient's plan of treatment and provided by individuals who are qualified to provide such services, who are supervised by a registered nurse and who are not members of the recipient's family, and furnished in the recipient's home or other location**. The authority of a nurse practitioner or physician assistant to prescribe or order the providing of services under this paragraph shall not apply unless there would be federal financial participation for services so prescribed or ordered. The commissioner of health shall, if necessary to obtain such federal financial participation, apply for waiver or other authority**;

§ 3. This act shall take effect on the sixtieth day after it shall have become a law, provided that the commissioner of health may make regulations pertaining thereto on or before such effective date.