

# STATE OF NEW YORK

3048

2019-2020 Regular Sessions

## IN ASSEMBLY

January 28, 2019

Introduced by M. of A. SEAWRIGHT -- read once and referred 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:

Section 1. Section 6801-a of the education law, as amended by chapter 238 of the laws of 2015, is amended to read as follows:

§ 6801-a. Collaborative drug therapy management [~~demonstration program~~]. 1. As used in this section, the following terms shall have the following meanings:

a. "Board" shall mean the state board of pharmacy as established by section sixty-eight hundred four of this article.

b. "Clinical services" shall mean the collection and interpretation of patient data for the purpose of initiating, modifying and monitoring drug therapy with associated accountability and responsibility for outcomes in a direct patient care setting.

c. "Collaborative drug therapy management" shall mean the performance of clinical services by a pharmacist relating to the review, evaluation and management of drug therapy to a patient, who is being treated by a physician or nurse practitioner for a specific disease or associated disease states, in accordance with a written agreement or protocol with a voluntarily participating physician or nurse practitioner and in accordance with the policies, procedures, and protocols of the facility. Such agreement or protocol as entered into by the physician or nurse practitioner and a pharmacist, may include, and shall be limited to:

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

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(i) adjusting or managing a drug regimen of a patient, pursuant to a patient specific order or protocol made by the patient's physician or nurse practitioner, which may include adjusting drug strength, frequency of administration or route of administration. Adjusting the drug regimen shall not include substituting or selecting a different drug which differs from that initially prescribed by the patient's physician or nurse practitioner unless such substitution is expressly authorized in the written order or protocol. The pharmacist shall be required to immediately document in the patient record changes made to the patient's drug therapy and shall use any reasonable means or method established by the facility to notify the patient's other treating physicians or nurse practitioners with whom he or she does not have a written agreement or protocol regarding such changes. The patient's physician or nurse practitioner may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist;

(ii) evaluating and, only if specifically authorized by the protocol and only to the extent necessary to discharge the responsibilities set forth in this section, ordering disease state laboratory tests related to the drug therapy management for the specific disease or disease state specified within the written agreement or protocol; and

(iii) only if specifically authorized by the written agreement or protocol and only to the extent necessary to discharge the responsibilities set forth in this section, ordering or performing routine patient monitoring functions as may be necessary in the drug therapy management, including the collecting and reviewing of patient histories, and ordering or checking patient vital signs, including pulse, temperature, blood pressure and respiration.

d. "Facility" shall mean: (i) a [~~teaching hospital or general~~] hospital, [~~including any diagnostic center, treatment center, or hospital-based outpatient department~~] as defined in subdivision one of section twenty-eight hundred one of the public health law; or (ii) a nursing home with an on-site pharmacy staffed by a licensed pharmacist; provided, however, for the purposes of this section the term "facility" shall not include dental clinics, dental dispensaries, residential health care facilities and rehabilitation centers.

~~[For the purposes of this section, a "teaching hospital" shall mean a hospital licensed pursuant to article twenty-eight of the public health law that is eligible to receive direct or indirect graduate medical education payments pursuant to article twenty-eight of the public health law.]~~ In addition, a facility may also include up to fifteen community-practice sites, selected by the department in consultation with the department of health, where pharmacists and physicians or nurse practitioners may propose to enter into collaborative arrangements, pursuant to the provisions of this section. Such sites shall be selected based upon a review of applications submitted to the department by such pharmacists and physicians or nurse practitioners, which demonstrate that the applicants can satisfy the requirements of this section.

e. "Physician" or "nurse practitioner" shall mean the physician or nurse practitioner selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient for the disease and associated disease states that are the subject of the collaborative drug therapy management.

f. "Written agreement or protocol" shall mean a written document, pursuant to and consistent with any applicable state or federal requirements, that addresses a specific disease or associated disease states and that describes the nature and scope of collaborative drug therapy

1 management to be undertaken by the pharmacists, in collaboration with  
2 the participating physician or nurse practitioner in accordance with the  
3 provisions of this section.

4 2. a. A pharmacist who meets the experience requirements of paragraph  
5 b of this subdivision and who is either employed by or otherwise affil-  
6 iated with a facility or is participating with a community-practice site  
7 selected pursuant to paragraph d of subdivision one of this section  
8 shall be permitted to enter into a written agreement or protocol with a  
9 physician or nurse practitioner authorizing collaborative drug therapy  
10 management, subject to the limitations set forth in this section, within  
11 the scope of such employment ~~[or]~~, affiliation or participation.

12 b. A participating pharmacist must:

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

15 (B) maintain a current unrestricted license; and

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

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

22 (B) maintain a current unrestricted license; and

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

28 (iii) meet any additional education, experience, or other requirements  
29 set forth by the department in consultation with the board.

30 c. Notwithstanding any provision of law, nothing in this section shall  
31 prohibit a licensed pharmacist from engaging in clinical services asso-  
32 ciated with collaborative drug therapy management, in order to gain  
33 experience necessary to qualify under clause (C) of subparagraph (i) or  
34 (ii) of paragraph b of this subdivision, provided that such practice is  
35 under the supervision of a pharmacist that currently meets the refer-  
36 enced requirement, and that such practice is authorized under the writ-  
37 ten agreement or protocol with the physician or nurse practitioner.

38 d. Notwithstanding any provision of this section, nothing herein shall  
39 authorize the pharmacist to diagnose disease. In the event that a treat-  
40 ing physician or nurse practitioner may disagree with the exercise of  
41 professional judgment by a pharmacist, the judgment of the treating  
42 physician or nurse practitioner shall prevail.

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

47 4. The existence of a written agreement or protocol on collaborative  
48 drug therapy management and the patient's right to choose to not partic-  
49 ipate in collaborative drug therapy management shall be disclosed to any  
50 patient who is eligible to receive collaborative drug therapy manage-  
51 ment. Collaborative drug therapy management shall not be utilized unless  
52 the patient or the patient's authorized representative consents, in  
53 writing, to such management. If the patient or the patient's authorized  
54 representative consents, it shall be noted on the patient's medical  
55 record. If the patient or the patient's authorized representative who  
56 consented to collaborative drug therapy management chooses to no longer

1 participate in such management, at any time, it shall be noted on the  
2 patient's medical record. In addition, the existence of the written  
3 agreement or protocol and the patient's consent to such management shall  
4 be disclosed to the patient's primary physician or nurse practitioner  
5 and any other treating physician or nurse practitioner or healthcare  
6 provider.

7 5. Participation in a written agreement or protocol authorizing colla-  
8 borative drug therapy management shall be voluntary, and no patient,  
9 physician or nurse practitioner, pharmacist, or facility shall be  
10 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 or nurse practitioners to engage in medication management  
14 prior to the effective date of this section and to the extent authorized  
15 by law.

16 § 2. Section 5 of chapter 21 of the laws of 2011 amending the educa-  
17 tion law relating to authorizing pharmacists to perform collaborative  
18 drug therapy management with physicians in certain settings, as amended  
19 by section 5 of part DD of chapter 57 of the laws of 2018, is amended to  
20 read as follows:

21 § 5. This act shall take effect on the one hundred twentieth day after  
22 it shall have become a law[~~, provided, however, that the provisions of~~  
23 ~~sections two, three, and four of this act shall expire and be deemed~~  
24 ~~repealed July 1, 2020~~]; provided, however, that the amendments to subdi-  
25 vision 1 of section 6801 of the education law made by section one of  
26 this act shall be subject to the expiration and reversion of such subdi-  
27 vision pursuant to section 8 of chapter 563 of the laws of 2008, when  
28 upon such date the provisions of section one-a of this act shall take  
29 effect; provided, further, that effective immediately, the addition,  
30 amendment and/or repeal of any rule or regulation necessary for the  
31 implementation of this act on its effective date are authorized and  
32 directed to be made and completed on or before such effective date.

33 § 3. This act shall take effect on the one hundred twentieth day after  
34 it shall have become a law. Effective immediately, the addition, amend-  
35 ment and/or repeal of any rule or regulation necessary for the implemen-  
36 tation of this act on its effective date are authorized to be made and  
37 completed on or before such effective date.