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2019-2020 Regular Sessions

IN ASSEMBLY

June 13, 2019

Introduced by M. of A. ROMEO, GLICK, PEOPLES-STOKES, ENGLEBRIGHT, MAGNARELLI, LIFTON, BENEDETTO, LUPARDO, STIRPE, BRONSON, FAHY, McDONALD, SIMON, BICHOTTE, WALLACE, TAYLOR, BUTTENSCHON, EPSTEIN, McMAHON -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to the practice of registered pharmacy technician

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

Section 1. The education law is amended by adding a new article 137-A to read as follows:

ARTICLE 137-A

REGISTERED PHARMACY TECHNICIANS

Section 6840. Introduction.

6841. Definition of the practice of registered pharmacy technician.

6842. Definitions.

6843. Practice of registered pharmacy technician and use of the title "registered pharmacy technician".

6844. Requirements for licensure as a registered pharmacy technician.

§ 6840. Introduction. This article applies to the profession of registered pharmacy technician. The general provisions for all professions contained in article one hundred thirty of this title shall apply to this article.

§ 6841. Definition of the practice of registered pharmacy technician. 1. A registered pharmacy technician may, under the direct personal supervision of a licensed pharmacist, assist such licensed pharmacist, as directed, in compounding, preparing, labeling, or dispensing of drugs used to fill valid prescriptions or medication orders or in compounding, preparing, and labeling in anticipation of a valid prescription or medication order for a patient to be served by the facility, in accordance

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

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with article one hundred thirty-seven of this title where such tasks require no professional judgment. Such professional judgment shall only be exercised by a licensed pharmacist. A registered pharmacy technician may only practice in a facility licensed in accordance with article twenty-eight of the public health law, or a pharmacy owned and operated by such a facility, under the direct personal supervision of a licensed pharmacist employed in such a facility or pharmacy. Such facility shall be responsible for ensuring that the registered pharmacy technician has received appropriate training to ensure competence before he or she begins assisting a licensed pharmacist in compounding, preparing, labeling, or dispensing of drugs, in accordance with this article and article one hundred thirty-seven of this title. For the purposes of this article, direct personal supervision means supervision of procedures based on instructions given directly by a supervising licensed pharmacist who remains in the immediate area where the procedures are being performed, authorizes the procedures and evaluates the procedures performed by the registered pharmacy technicians and a supervising licensed pharmacist shall approve all work performed by the registered pharmacy technician prior to the actual dispensing of any drug.

2. In addition to the registered pharmacy technician services included in subdivision one of this section, registered pharmacy technicians may also assist a licensed pharmacist in the dispensing of drugs by performing the following functions that do not require a license under this article:

a. receiving written or electronically transmitted prescriptions, except that in the case of electronically transmitted prescriptions the licensed pharmacist or pharmacy intern shall review the prescription to determine whether in his or her professional judgment it shall be accepted by the pharmacy, and if accepted, the licensed pharmacist or pharmacy intern shall enter his or her initials into the records of the pharmacy;

b. typing prescription labels;

c. keying prescription data for entry into a computer-generated file or retrieving prescription data from the file, provided that such computer-generated file shall provide for verification of all information needed to fill the prescription by a licensed pharmacist prior to the dispensing of the prescription, meaning that the licensed pharmacist shall review and approve such information and enter his or her initials or other personal identifier into the recordkeeping system prior to the dispensing of the prescription or of the prescription refill;

d. getting drugs from stock and returning them to stock;

e. getting prescription files and other manual records from storage and locating prescriptions;

f. counting dosage units of drugs;

g. placing dosage units of drugs in appropriate containers;

h. affixing the prescription label to the containers;

i. preparing manual records of dispensing for the signature or initials of the licensed pharmacist;

j. handing or delivering completed prescriptions to the patient or the person authorized to act on behalf of the patient and, in accordance with the relevant commissioner's regulations, advising the patient or person authorized to act on behalf of the patient of the availability of counseling to be conducted by the licensed pharmacist or pharmacy intern; or

k. performing other functions as defined by the commissioner's regulations.

3. Under the direct personal supervision of a licensed pharmacist, unlicensed persons who are not registered pharmacy technicians may assist licensed pharmacists in performing tasks that do not require licensure in accordance with regulations promulgated by the commissioner and are also described in subdivision two of this section. Unlicensed persons who are not registered pharmacy technicians shall not engage in or assist in compounding.

4. No licensed pharmacist shall obtain the assistance of more than two registered pharmacy technicians in the performance of licensed tasks within their scope of practice or four unlicensed persons, in the performance of the activities that do not require licensure, the total of such persons shall not exceed four individuals at any one time. Pharmacy interns shall be exempt from such ratios, but shall be supervised in accordance with commissioner's regulations. Individuals who are responsible for the act of placing drugs which are in unit-dose packaging into medication carts as part of an approved unit-dose drug distribution system for patients in institutional settings shall be exempt from such ratio, provided that such individuals are not also engaged in performing the activities set forth in subdivision one or paragraph b, c, d, e, f, g, h, or i of subdivision two of this section. The licensed pharmacist shall provide the degree of supervision of such persons as may be appropriate to ensure compliance with the relevant provisions of regulations of the commissioner.

§ 6842. Definitions. As used in this article:

1. "Licensed pharmacist" means a person licensed to practice pharmacy pursuant to article one hundred thirty-seven of this title.

2. "Pharmacy intern" means a person practicing under a limited permit pursuant to section sixty-eight hundred six of this title.

3. "Professional judgment" means professional decision-making by a licensed pharmacist, including, but not limited to, such activities as:

a. interpreting a prescription or medication order for therapeutic acceptability and appropriateness or engaging in the calculations behind any such formulations;

b. interpreting and evaluating a prescription or medication order for conformance with legal requirements, authenticity, accuracy and interaction of the prescribed drug with other known prescribed and over-the-counter drugs;

c. receiving oral prescriptions from prescribers; or

d. counseling patients.

4. "Compounding" means the combining, admixing, mixing, diluting, pooling, reconstituting, or otherwise altering of a drug or bulk drug substance to create a drug.

5. "Drugs", "pharmacopeia", "labeling" and "sterile drug" shall have the same definitions as set forth in section sixty-eight hundred two of this title.

§ 6843. Practice of registered pharmacy technician and use of the title "registered pharmacy technician". Only a person licensed to practice as a registered pharmacy technician under this article or otherwise authorized shall practice as a registered pharmacy technician or use the title "registered pharmacy technician."

§ 6844. Requirements for licensure as a registered pharmacy technician. To qualify for licensure as a "registered pharmacy technician", an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including high school graduation or its equivalent, as determined by the department;

3. Certification from a nationally accredited pharmacy technician certification program acceptable to the department;

4. Age: at the time of application be at least eighteen years of age;

5. Character: be of good moral character as determined by the department; and

6. Fee: pay a fee determined by the department for initial license and for each triennial registration period.

§ 2. The education law is amended by adding a new section 6832 to read as follows:

§ 6832. Limitations on assistance of an unlicensed person. 1. Subject to the limitations set forth in subdivision two of this section, an unlicensed person may assist a licensed pharmacist in the dispensing of drugs by:

(a) receiving written or electronically transmitted prescriptions, except that in the case of electronically transmitted prescriptions the licensed pharmacist or pharmacy intern shall review the prescription to determine whether in his or her professional judgment it shall be accepted by the pharmacy, and if accepted, the licensed pharmacist or pharmacy intern shall enter his or her initials into the records of the pharmacy;

(b) typing prescription labels;

(c) keying prescription data for entry into a computer-generated file or retrieving prescription data from the file, provided that such computer-generated file shall provide for verification of all information needed to fill the prescription by a licensed pharmacist prior to the dispensing of the prescription, meaning that the licensed pharmacist shall review and approve such information and enter his or her initials or other personal identifier into the recordkeeping system prior to the dispensing of the prescription or of the prescription refill;

(d) getting drugs from stock and returning them to stock;

(e) getting prescription files and other manual records from storage and locating prescriptions;

(f) counting dosage units of drugs;

(g) placing dosage units of drugs in appropriate containers;

(h) affixing the prescription label to the containers;

(i) preparing manual records of dispensing for the signature or initials of the licensed pharmacist;

(j) handing or delivering completed prescriptions to the patient or the person authorized to act on behalf of the patient and, in accordance with the relevant commissioner's regulations, advising the patient or person authorized to act on behalf of the patient of the availability of counseling to be conducted by the licensed pharmacist or pharmacy intern; and

(k) performing other functions as defined by the commissioner's regulations.

2. Except for a licensed pharmacist employed by a facility licensed in accordance with article twenty-eight of the public health law or a pharmacy owned and operated by such a facility, as defined in article one hundred thirty-seven-A of this title, no licensed pharmacist shall obtain the assistance of more than four unlicensed persons, in the performance of the activities that do not require licensure, the total of such persons shall not exceed four individuals at any one time. Pharmacy interns shall be exempt from such ratios, but shall be supervised in accordance with the commissioner's regulations. Individuals who are responsible for the act of placing drugs which are in unit-dose packaging into medication carts as part of an approved unit-dose drug distrib-

ution system for patients in institutional settings shall be exempt from such ratio, provided that such individuals are not also engaged in performing the activities set forth in paragraph (b), (c), (d), (e), (f), (g), (h) or (i) of subdivision one of this section. The licensed pharmacist shall provide the degree of supervision of such persons as may be appropriate to ensure compliance with the relevant provisions of regulations of the commissioner.

§ 3. Section 6804 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

§ 6804. State board of pharmacy. A state board of pharmacy shall be appointed by the regents on recommendation of the commissioner for the purpose of assisting the regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than nine pharmacists licensed in this state for at least five years and two registered pharmacy technicians. The initial registered pharmacy technician members of the state board of pharmacy need not be licensed prior to their appointment but shall have met all other requirements of licensure pursuant to section sixty-eight hundred forty-two of this title except for filing an application and paying a fee. An executive secretary to the board shall be appointed by the regents on recommendation of the commissioner and shall be a pharmacist licensed in this state for at least five years. The board shall [~~have power~~] provide assistance to the department:

a. To regulate the practice of pharmacy, registered pharmacy technicians and the employment of interns and employees in pharmacies,

b. To regulate and control the sale, distribution, character and standard of drugs, poisons, cosmetics, devices and new drugs,

c. [~~To employ inspectors and chemists,~~

~~d.~~] To prevent the sale or distribution of such drugs, poisons, cosmetics, devices and new drugs as do not conform to the provisions of this article or of the public health law,

[~~e.~~] d. To investigate alleged violations of the provisions of this article[~~, through its own investigative personnel or those of other agencies, to conduct hearings, to levy money penalties, and to bring alleged violations to the notice of the attorney general~~], and

[~~f.~~] e. To issue limited permits or registrations.

§ 4. This act shall take effect eighteen months after it shall have become a law; provided, however, that the department of education is authorized to promulgate regulations that may be required and to take other measures necessary to implement the provisions of this act prior to such effective date, including appointment of two registered pharmacy technicians to the state board of pharmacy, and the acceptance and processing of applications for licensure.