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.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [—] is old law to be omitted.
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, label-
ing, or dispensing of drugs, in accordance with this article and article
one hundred thirty-seven of this title. For the purposes of this arti-
cle, 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 perform-
ing 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 compu-
ter-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 regu-
lations.

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 super-
vised in accordance with commissioner's regulations. Individuals who are
responsible for the act of placing drugs which are in unit-dose packag-
ing 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 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 inter-
action of the prescribed drug with other known prescribed and over-the
counter drugs;
c. receiving oral prescriptions from prescribers; or
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 prac-
tice 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 techni-
cian. 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 gradu-
ation 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 depart-
ment; 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 compu-
ter-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 regu-
lations.
2. Except for a licensed pharmacist employed by a facility licensed in
accordance with article twenty-eight of the public health law or a phar-
macy 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. Phar-
macy 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 packag-
ing 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 to 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. [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

§ 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.