

STATE OF NEW YORK

6517

2019-2020 Regular Sessions

IN SENATE

June 14, 2019

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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

ARTICLE 137-A

REGISTERED PHARMACY TECHNICIANS

Section 6840. Introduction.

6 6841. Definition of the practice of registered pharmacy technician.
7

8 6842. Definitions.

9 6843. Practice of registered pharmacy technician and use of the
10 title "registered pharmacy technician".

11 6844. Requirements for licensure as a registered pharmacy technician.
12

13 § 6840. Introduction. This article applies to the profession of registered
14 pharmacy technician. The general provisions for all professions
15 contained in article one hundred thirty of this title shall apply to
16 this article.

17 § 6841. Definition of the practice of registered pharmacy technician.
18 1. A registered pharmacy technician may, under the direct personal
19 supervision of a licensed pharmacist, assist such licensed pharmacist,
20 as directed, in compounding, preparing, labeling, or dispensing of drugs
21 used to fill valid prescriptions or medication orders or in compounding,
22 preparing, and labeling in anticipation of a valid prescription or medi-
23 cation order for a patient to be served by the facility, in accordance
24 with article one hundred thirty-seven of this title where such tasks
25 require no professional judgment. Such professional judgment shall only

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

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1 be exercised by a licensed pharmacist. A registered pharmacy technician
2 may only practice in a facility licensed in accordance with article
3 twenty-eight of the public health law, or a pharmacy owned and operated
4 by such a facility, under the direct personal supervision of a licensed
5 pharmacist employed in such a facility or pharmacy. Such facility shall
6 be responsible for ensuring that the registered pharmacy technician has
7 received appropriate training to ensure competence before he or she
8 begins assisting a licensed pharmacist in compounding, preparing, label-
9 ing, or dispensing of drugs, in accordance with this article and article
10 one hundred thirty-seven of this title. For the purposes of this arti-
11 cle, direct personal supervision means supervision of procedures based
12 on instructions given directly by a supervising licensed pharmacist who
13 remains in the immediate area where the procedures are being performed,
14 authorizes the procedures and evaluates the procedures performed by the
15 registered pharmacy technicians and a supervising licensed pharmacist
16 shall approve all work performed by the registered pharmacy technician
17 prior to the actual dispensing of any drug.

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

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

30 b. typing prescription labels;

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

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

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

42 f. counting dosage units of drugs;

43 g. placing dosage units of drugs in appropriate containers;

44 h. affixing the prescription label to the containers;

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

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

53 k. performing other functions as defined by the commissioner's regu-
54 lations.

55 3. Under the direct personal supervision of a licensed pharmacist,
56 unlicensed persons who are not registered pharmacy technicians may

1 assist licensed pharmacists in performing tasks that do not require
2 licensure in accordance with regulations promulgated by the commissioner
3 and are also described in subdivision two of this section. Unlicensed
4 persons who are not registered pharmacy technicians shall not engage in
5 or assist in compounding.

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

22 § 6842. Definitions. As used in this article:

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

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

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

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

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

36 c. receiving oral prescriptions from prescribers; or

37 d. counseling patients.

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

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

44 § 6843. Practice of registered pharmacy technician and use of the
45 title "registered pharmacy technician". Only a person licensed to prac-
46 tice as a registered pharmacy technician under this article or otherwise
47 authorized shall practice as a registered pharmacy technician or use the
48 title "registered pharmacy technician."

49 § 6844. Requirements for licensure as a registered pharmacy techni-
50 cian. To qualify for licensure as a "registered pharmacy technician", an
51 applicant shall fulfill the following requirements:

52 1. Application: file an application with the department;

53 2. Education: have received an education, including high school gradu-
54 ation or its equivalent, as determined by the department;

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

- 1 4. Age: at the time of application be at least eighteen years of age;
2 5. Character: be of good moral character as determined by the depart-
3 ment; and
4 6. Fee: pay a fee determined by the department for initial license and
5 for each triennial registration period.

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

8 § 6832. Limitations on assistance of an unlicensed person. 1. Subject
9 to the limitations set forth in subdivision two of this section, an
10 unlicensed person may assist a licensed pharmacist in the dispensing of
11 drugs by:

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

19 (b) typing prescription labels;

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

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

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

31 (f) counting dosage units of drugs;

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

33 (h) affixing the prescription label to the containers;

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

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

42 (k) performing other functions as defined by the commissioner's regu-
43 lations.

44 2. Except for a licensed pharmacist employed by a facility licensed in
45 accordance with article twenty-eight of the public health law or a phar-
46 macy owned and operated by such a facility, as defined in article one
47 hundred thirty-seven-A of this title, no licensed pharmacist shall
48 obtain the assistance of more than four unlicensed persons, in the
49 performance of the activities that do not require licensure, the total
50 of such persons shall not exceed four individuals at any one time. Phar-
51 macy interns shall be exempt from such ratios, but shall be supervised
52 in accordance with the commissioner's regulations. Individuals who are
53 responsible for the act of placing drugs which are in unit-dose packag-
54 ing into medication carts as part of an approved unit-dose drug distrib-
55 ution system for patients in institutional settings shall be exempt from
56 such ratio, provided that such individuals are not also engaged in

1 performing the activities set forth in paragraph (b), (c), (d), (e),
2 (f), (g), (h) or (i) of subdivision one of this section. The licensed
3 pharmacist shall provide the degree of supervision of such persons as
4 may be appropriate to ensure compliance with the relevant provisions of
5 regulations of the commissioner.

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

8 § 6804. State board of pharmacy. A state board of pharmacy shall be
9 appointed by the regents on recommendation of the commissioner for the
10 purpose of assisting the regents and the department on matters of
11 professional licensing and professional conduct in accordance with
12 section sixty-five hundred eight of this title. The board shall be
13 composed of not less than nine pharmacists licensed in this state for at
14 least five years and two registered pharmacy technicians. The initial
15 registered pharmacy technician members of the state board of pharmacy
16 need not be licensed prior to their appointment but shall have met all
17 other requirements of licensure pursuant to section sixty-eight hundred
18 forty-two of this title except for filing an application and paying a
19 fee. An executive secretary to the board shall be appointed by the
20 regents on recommendation of the commissioner and shall be a pharmacist
21 licensed in this state for at least five years. The board shall [~~have~~
22 ~~power~~] provide assistance to the department:

23 a. To regulate the practice of pharmacy, registered pharmacy techni-
24 cians and the employment of interns and employees in pharmacies,

25 b. To regulate and control the sale, distribution, character and stan-
26 dard of drugs, poisons, cosmetics, devices and new drugs,

27 c. [~~To employ inspectors and chemists,~~
28 ~~d.~~] To prevent the sale or distribution of such drugs, poisons,
29 cosmetics, devices and new drugs as do not conform to the provisions of
30 this article or of the public health law,

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

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

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