

# STATE OF NEW YORK

3849

2019-2020 Regular Sessions

## IN ASSEMBLY

January 31, 2019

Introduced by M. of A. McDONALD, MOSLEY, ORTIZ, D'URSO, BENEDETTO, SEAWRIGHT, JOYNER, CROUCH, GIGLIO, NIOU, CAHILL, WRIGHT, LAWRENCE, STECK, JONES, LUPARDO, COLTON, DICKENS, FAHY, LIFTON, RA -- Multi-Sponsored by -- M. of A. ENGLEBRIGHT, HAWLEY -- read once and referred to the Committee on Higher Education

AN ACT to amend the public health law and the education law, in relation to comprehensive medication 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 provisions of such chapter permanent

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

Section 1. The public health law is amended by adding a new article 29-H to read as follows:

### ARTICLE 29-H

#### COMPREHENSIVE MEDICATION MANAGEMENT

##### Section 2999-ee. Comprehensive medication management.

§ 2999-ee. Comprehensive medication management. 1. Definitions. As used in this article, the following terms shall have the following meanings:

(a) Qualified pharmacist. The term "qualified pharmacist" shall mean a pharmacist who maintains a current unrestricted license pursuant to article one hundred thirty-seven of the education law, who has a minimum of two years of experience in patient care as a practicing pharmacist within the last five years, and who has demonstrated competency in the medication management of patients with a chronic disease or diseases, including, but not limited to, the completion of one or more programs which are accredited by the accreditation council for pharmacy education, recognized by the education department and acceptable to the patient's treating physician.

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

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1 (b) Patient care. The term "patient care" shall mean assessing the  
2 appropriateness of prescription and non-prescription drugs for individ-  
3 ual patients based on an assessment of the patient's medication history,  
4 medication experience including beliefs, concerns, understanding and  
5 expectations, the clinical goals of therapy, potential drug-to-drug  
6 interactions or other medication safety concerns, recommendations for  
7 adherence and consulting with a patient or caregiver.

8 (c) Comprehensive medication management. The term "comprehensive medi-  
9 cation management" shall mean a program conducted by a qualified pharma-  
10 cist that ensures a patient's medications, whether prescription or  
11 nonprescription, are individually assessed to determine that each medi-  
12 cation is appropriate for the patient, effective for the medical condi-  
13 tion, safe given the comorbidities and other medications being taken,  
14 and able to be taken by the patient as intended. Comprehensive medica-  
15 tion management conducted by a qualified pharmacist shall include shar-  
16 ing of applicable patient clinical information with the treating physi-  
17 cian as specified in a comprehensive medication management protocol.

18 (d) Comprehensive medication management protocol. The term "comprehen-  
19 sive medication management protocol" shall mean a written document  
20 pursuant to and consistent with any applicable state and federal  
21 requirements, that is entered into voluntarily by a physician licensed  
22 pursuant to article one hundred thirty-one of the education law and a  
23 qualified pharmacist which addresses a chronic disease or diseases as  
24 determined by the treating physician and that describes the nature and  
25 scope of the comprehensive medication management services to be  
26 performed by the qualified pharmacist, in accordance with the provisions  
27 of this article. Comprehensive medication management protocols between  
28 licensed physicians and qualified pharmacists shall be made available to  
29 the department for review and to ensure compliance with this article,  
30 upon request.

31 2. Authorization to establish comprehensive medication management  
32 protocols. A physician licensed pursuant to article one hundred thirty-  
33 one of the education law shall be authorized to voluntarily establish a  
34 comprehensive medication management protocol with a qualified pharmacist  
35 to provide comprehensive medication management services for a patient  
36 who has not met clinical goals of therapy, is at risk for hospitaliza-  
37 tion or for whom the physician deems it is necessary to receive compre-  
38 hensive medication management services. Participation by the patient in  
39 comprehensive medication management services shall be voluntary.

40 3. Scope of comprehensive medication management protocols. Under a  
41 comprehensive medication management protocol, a qualified pharmacist  
42 shall be permitted to:

43 (a) adjust or manage a drug regimen of a patient, pursuant to the  
44 patient specific order or protocol established by the patient's treating  
45 physician, which may include adjusting drug strength, frequency of  
46 administration or route of administration. Adjusting the drug regimen  
47 shall not include substituting or selecting a different drug which  
48 differs from that initially prescribed by the patient's treating physi-  
49 cian unless such substitution is expressly authorized in the written  
50 order or protocol. The qualified pharmacist shall be required to imme-  
51 diately document in the patient's medical record changes made to the  
52 patient's drug therapy. The patient's treating physician may prohibit,  
53 by written instruction, any adjustment or change in the patient's drug  
54 regimen by the qualified pharmacist;

55 (b) evaluate and, only if specifically authorized by the protocol and  
56 only to the extent necessary to discharge the responsibilities set forth

1 in this article, order disease state laboratory tests related to the  
2 drug therapy management for the specific chronic disease or diseases  
3 specified within the written agreement or protocol;

4 (c) only if specifically authorized by the written order or protocol  
5 and only to the extent necessary to discharge the responsibilities set  
6 forth in this article, order or perform routine patient monitoring func-  
7 tions as may be necessary in the drug therapy management, including the  
8 collecting and reviewing of patient histories, and ordering or checking  
9 patient vital signs, including pulse, temperature, blood pressure,  
10 weight and respiration; and

11 (d) access the complete patient medical record maintained by the  
12 treating physician with whom the qualified pharmacist has the comprehen-  
13 sive medication management protocol and document any adjustments made  
14 pursuant to the protocol in the patient's medical record and shall noti-  
15 fy the patient's treating physician of any adjustments in a timely  
16 manner electronically or by other means.

17 (e) Under no circumstances, shall the qualified pharmacist be permit-  
18 ted to delegate comprehensive medication management services to any  
19 other licensed pharmacist or other pharmacy personnel.

20 4. Medication adjustments. Any medication adjustments made by the  
21 qualified pharmacist pursuant to the comprehensive medication management  
22 protocol including adjustments in drug strength, frequency or route of  
23 administration, or initiation of a drug which differs from that initial-  
24 ly prescribed and as documented in the patient's medical record shall be  
25 deemed an oral prescription authorized by an agent of the patient's  
26 treating physician and shall be dispensed consistent with section  
27 sixty-eight hundred ten of the education law. For the purposes of this  
28 article, a pharmacist who is not an employee of the physician may be  
29 authorized to serve as an agent of the physician.

30 5. Referrals. A physician licensed pursuant to article one hundred  
31 thirty-one of the education law who has responsibility for the treatment  
32 and care of a patient for a chronic disease or diseases as determined by  
33 the physician may refer the patient to a qualified pharmacist for  
34 comprehensive medication management services, pursuant to the comprehen-  
35 sive medication management protocol that the physician has established  
36 with the qualified pharmacist. The protocol agreement shall authorize  
37 the pharmacist to serve as an agent of the physician as defined by the  
38 protocol. Such referral shall be documented in the patient's medical  
39 record.

40 6. Patient participation. Participation in comprehensive medication  
41 management services shall be voluntary, and no patient, physician or  
42 pharmacist shall be required to participate. The referral of a patient  
43 for comprehensive medication management services and the patient's right  
44 to choose to not participate shall be disclosed to the patient. Compre-  
45 hensive medication management services shall not be utilized unless the  
46 patient or the patient's authorized representative consents, in writing,  
47 to such services. Such consent shall be noted in the patient's medical  
48 record. If the patient or the patient's authorized representative who  
49 consented chooses to no longer participate in such services, at any  
50 time, the services shall be discontinued and it shall be noted in the  
51 patient's medical record.

52 § 2. The education law is amended by adding a new section 6801-b to  
53 read as follows:

54 § 6801-b. Comprehensive medication management. 1. As used in this  
55 section:

1 (a) "comprehensive medication management" shall mean a program for the  
2 management of chronic disease or diseases that ensures a patient's medi-  
3 cations, whether prescription or nonprescription, are individually  
4 assessed to determine that each medication is appropriate for the  
5 patient, effective for the medical condition, safe given the comorbiditi-  
6 ties and other medications being taken, and able to be taken by the  
7 patient as intended; and

8 (b) "comprehensive medication management protocol" shall mean a writ-  
9 ten document, pursuant to and consistent with any applicable state or  
10 federal requirements, that is entered into voluntarily by a physician  
11 licensed pursuant to article one hundred thirty-one of this title and a  
12 licensed pharmacist who meets the qualification requirements specified  
13 in article twenty-nine-H of the public health law which addresses a  
14 chronic disease or diseases as determined by the physician and that  
15 describes the nature and scope of the comprehensive medication manage-  
16 ment service to be performed by the qualified pharmacist. Comprehensive  
17 medication management protocols between licensed physicians and quali-  
18 fied pharmacists shall be made available to the department for review  
19 and to ensure compliance with this article, upon request.

20 2. A licensed pharmacist qualified pursuant to article twenty-nine-H  
21 of the public health law is authorized to serve as an agent of the  
22 physician when executing the terms of the written comprehensive medica-  
23 tion management protocol as established by the licensed physician for  
24 the management of patients with a chronic disease or diseases.

25 § 3. Section 5 of chapter 21 of the laws of 2011, amending the educa-  
26 tion law relating to authorizing pharmacists to perform collaborative  
27 drug therapy management with physicians in certain settings, as amended  
28 by section 5 of part DD of chapter 57 of the laws of 2018, is amended to  
29 read as follows:

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

42 § 4. This act shall take effect immediately, provided that sections  
43 one and two of this act shall take effect on the one hundred eightieth  
44 day after it shall have become a law. Effective immediately, the addi-  
45 tion, amendment and/or repeal of any rule or regulation necessary for  
46 the implementation of this act on its effective date are authorized and  
47 directed to be made and completed on or before such effective date.