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.

§ 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 with article one hundred thirty-seven of this title where such tasks 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.
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
assistance 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
_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 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 techni-
cians and the employment of interns and employees in pharmacies,
  b. To regulate and control the sale, distribution, character and stan-
dard 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 proc-
essing of applications for licensure.