STATE OF NEW YORK

3591--A

2023-2024 Regular Sessions

IN SENATE

February 1, 2023

Introduced by Sens. BRESLIN, ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the education law, in relation to collaborative practice medication adherence; 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. This act shall be known and may be cited as the "Collaborative Practice Medication Adherence Act".

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

ARTICLE 29-H

COLLABORATIVE PRACTICE MEDICATION ADHERENCE ACT

Section 2999-ff. Collaborative practice medication adherence.

§ 2999-ff. Collaborative practice medication adherence. 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 medication adherence 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,

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

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recognized by the education department and acceptable to the patient's treating physician.

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

(c) Collaborative practice medication adherence. The term "collaborative practice medication adherence" shall mean a program conducted by a qualified pharmacist that ensures a patient's medications, whether prescription or nonprescription, are individually assessed to determine that each medication is appropriate for the patient, effective for the medical condition, safe given the comorbidities and other medications being taken, and able to be taken by the patient as intended. Collaborative practice medication adherence protocols conducted by a qualified pharmacist shall include sharing of applicable patient clinical information with the treating physician as specified in a collaborative practice medication adherence protocol.

(d) Collaborative practice medication adherence protocol. The term "collaborative practice medication adherence protocol" shall mean a written document pursuant to and consistent with any applicable state and federal requirements, that is entered into voluntarily by a physician licensed pursuant to article one hundred thirty-one of the education law and a qualified pharmacist which addresses a chronic disease or diseases as determined by the treating physician and that describes the nature and scope of the collaborative practice medication adherence services to be performed by the qualified pharmacist, in accordance with the provisions of this article. Collaborative practice medication adherence protocols between licensed physicians and qualified pharmacists shall be made available to the department for review and to ensure compliance with this article, upon request.

2. Authorization to establish collaborative practice medication adherence protocols. A physician licensed pursuant to article one hundred thirty-one of the education law shall be authorized to voluntarily establish a collaborative practice medication adherence protocol with a qualified pharmacist to provide collaborative practice medication adherence services for a patient who has not met clinical goals of therapy, is at risk for hospitalization or for whom the physician deems it is necessary to receive collaborative practice medication adherence services. Participation by the patient in collaborative practice medication adherence services shall be voluntary.

3. Scope of collaborative practice medication adherence protocols. Under a collaborative practice medication adherence protocol, a qualified pharmacist shall be permitted to:

(a) adjust or manage a drug regimen of a patient, pursuant to the patient specific order or protocol established by the patient's treating physician, which may include adjusting drug strength, frequency of administration or route of administration. Adjusting the drug regimen shall not include substituting or selecting a different drug which differs from that initially prescribed by the patient's treating physician unless such substitution is expressly authorized in the written order or protocol. The qualified pharmacist shall be required to immediately document in the patient's medical record changes made to the patient's drug therapy. The patient's treating physician may prohibit,

by written instruction, any adjustment or change in the patient's drug regimen by the qualified pharmacist;

(b) evaluate and, only if specifically authorized by the protocol and only to the extent necessary to discharge the responsibilities set forth in this article, order disease state laboratory tests related to the drug therapy management for the specific chronic disease or diseases specified within the written agreement or protocol;

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

(d) access the complete patient medical record maintained by the treating physician with whom the qualified pharmacist has the collaborative practice medication adherence protocol and document any adjustments made pursuant to the protocol in the patient's medical record and shall notify the patient's treating physician of any adjustments in a timely manner electronically or by other means.

(e) Under no circumstances, shall the qualified pharmacist be permitted to delegate collaborative practice medication adherence services to any other licensed pharmacist or other pharmacy personnel.

4. Medication adjustments. Any medication adjustments made by the qualified pharmacist pursuant to the collaborative practice medication adherence protocol including adjustments in drug strength, frequency or route of administration, or initiation of a drug which differs from that initially prescribed and as documented in the patient's medical record shall be deemed an oral prescription authorized by an agent of the patient's treating physician and shall be dispensed consistent with section sixty-eight hundred ten of the education law. For the purposes of this article, a pharmacist who is not an employee of the physician may be authorized to serve as an agent of the physician.

5. Referrals. A physician licensed pursuant to article one hundred thirty-one of the education law who has responsibility for the treatment and care of a patient for a chronic disease or diseases as determined by the physician may refer the patient to a qualified pharmacist for collaborative practice medication adherence services, pursuant to the collaborative practice medication adherence protocol that the physician has established with the qualified pharmacist. The protocol agreement shall authorize the pharmacist to serve as an agent of the physician as defined by the protocol. Such referral shall be documented in the patient's medical record.

6. Patient participation. Participation in collaborative practice medication adherence services shall be voluntary, and no patient, physician or pharmacist shall be required to participate. The referral of a patient for collaborative practice medication adherence services and the patient's right to choose to not participate shall be disclosed to the patient. Collaborative practice medication adherence services shall not be utilized unless the patient or the patient's authorized representative consents, in writing, to such services. Such consent shall be noted in the patient's medical record. If the patient or the patient's authorized representative who consented chooses to no longer participate in such services, at any time, the services shall be discontinued and it shall be noted in the patient's medical record.

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

§ 6801-b. Collaborative practice medication adherence. 1. As used in this section:

(a) "collaborative practice medication adherence" shall mean a program for the management of chronic disease or diseases that ensures a patient's medications, whether prescription or nonprescription, are individually assessed to determine that each medication is appropriate for the patient, effective for the medical condition, safe given the comorbidities and other medications being taken, and able to be taken by the patient as intended; and

(b) "collaborative practice medication adherence protocol" shall mean a written document, pursuant to and consistent with any applicable state or federal requirements, that is entered into voluntarily by a physician licensed pursuant to article one hundred thirty-one of this title and a licensed pharmacist who meets the qualification requirements specified in article twenty-nine-H of the public health law which addresses a chronic disease or diseases as determined by the physician and that describes the nature and scope of the collaborative practice medication adherence service to be performed by the qualified pharmacist. Collaborative practice medication adherence protocols between licensed physicians and qualified pharmacists shall be made available to the department for review and to ensure compliance with this article, upon request.

2. A licensed pharmacist qualified pursuant to article twenty-nine-H of the public health law is authorized to serve as an agent of the physician when executing the terms of the written collaborative practice medication adherence protocol as established by the licensed physician for the management of patients with a chronic disease or diseases.

§ 4. Section 5 of 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, as amended by section 5 of part CC of chapter 57 of the laws of 2022, is amended to read as follows:

§ 5. This act shall take effect on the one hundred twentieth day after it shall have become a law[~~, provided, however, that the provisions of sections two, three, and four of this act shall expire and be deemed repealed July 1, 2024~~]; provided, however, that the amendments to subdivision 1 of section 6801 of the education law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 8 of chapter 563 of the laws of 2008, when upon such date the provisions of section one-a of this act shall take effect; provided, further, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

§ 5. This act shall take effect immediately, provided that sections one and two of this act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.