

STATE OF NEW YORK

7592

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to establishing the practice of telepharmacy

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

1 Section 1. Section 6802 of the education law is amended by adding five
2 new subdivisions 30, 31, 32, 33 and 34 to read as follows:

3 30. "Central pharmacy" means a registered pharmacy that provides pharmacy services to a remote site pharmacy via a computer link, video link and audio link, or other functionally equivalent telecommunications equipment.

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7 31. "Remote site pharmacy" means a registered pharmacy where drugs and devices are stored and dispensed, and is staffed by pharmacy technicians who operate under the remote supervision of a licensed pharmacist via a computer link, video link and audio link, or other functionally equivalent telecommunications equipment.

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11 32. "Remote supervision" means supervision by a licensed pharmacist via computer link, video link and audio link, or other functionally equivalent telecommunications equipment.

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15 33. "Telepharmacy" means the practice of pharmacy provided by a pharmacist to one or more remote site pharmacies in which all sites are connected via computer link, video link and audio link, or other functionally equivalent telecommunications equipment.

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22 34. "Telepharmacy in hospitals" means a central hospital pharmacy with one or more remote site pharmacies in which all sites are connected via computer link, video link and audio link, or other functionally equivalent telecommunications equipment.

23 § 2. The education law is amended by adding a new section 6833 to read
24 as follows:

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

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1 § 6833. Telepharmacy. 1. A remote site pharmacy shall comply with
2 section sixty-eight hundred eight of this article, governing require-
3 ments for registration to operate a pharmacy. The remote site pharmacy
4 is considered to be under the personal charge of the licensed pharmacist
5 who is providing remote supervision of the remote site pharmacy.

6 2. A remote site pharmacy shall either be jointly owned by a central
7 pharmacy or be operated under a contract with a central pharmacy, and
8 connected to its central pharmacy via computer link, video link and
9 audio link, or other functionally equivalent telecommunications equip-
10 ment. A remote site pharmacy shall use a pharmacy management system
11 which shall comply with the following minimum requirements:

12 (A) all prescription records shall be maintained at the remote site
13 pharmacy and be electronically accessible from the central pharmacy;

14 (B) prescriptions filled at the remote site pharmacy shall be distin-
15 guishable on records from those filled at the central pharmacy;

16 (C) daily reports must be separated for the central pharmacy and the
17 remote site pharmacy, but shall be electronically accessible at the
18 central pharmacy;

19 (D) pharmacies shall be able to generate labels from the central phar-
20 macy or at the remote site pharmacy; and

21 (E) all prescriptions distributed at the remote site pharmacy shall
22 have a label that meets requirements set forth in section sixty-eight
23 hundred eleven-a of this article attached to the final drug container
24 before the pharmacist verifies the dispensing process.

25 3. A licensed pharmacist employed by the central pharmacy shall
26 approve each prescription before it leaves the remote site pharmacy. At
27 a minimum such approval shall include the following functions, but not
28 be limited to:

29 (A) An audit trail which identifies any pharmacist or pharmacy techni-
30 cian who participated in the dispensing process, and both the
31 pharmacist's and the pharmacy technician's initials shall appear on the
32 label; and

33 (B) a pharmacist shall compare via video link the captured images of
34 the stock bottle, drug dispensed and strength. The entire label shall be
35 checked for accuracy using the images captured via the video link.

36 4. Unless a pharmacist is onsite at the remote site pharmacy, coun-
37 seling shall be accomplished by a pharmacist using a HIPAA compliant
38 video and audio link. The pharmacist shall counsel the patient or the
39 patient's agent on all new prescriptions and any changes in therapy as
40 required by regulation.

41 5. A pharmacist shall complete monthly inspections of the remote site
42 pharmacy. Inspection criteria shall be included in the policies and
43 procedures for the site. The inspection reports shall be maintained for
44 five years.

45 6. The remote site pharmacy shall have a prescription inventory.
46 Controlled substances may be kept at the remote site pharmacy.

47 (A) If controlled substances are kept, the remote site pharmacy shall
48 be registered with the drug enforcement administration and shall obtain
49 its own drug enforcement administration number.

50 (B) All records shall be maintained at the remote site pharmacy and
51 electronically accessible from the central pharmacy.

52 (C) Policies and procedures shall be implemented to ensure the safe
53 and effective distribution of pharmaceutical products and delivery of
54 required pharmaceutical care; including, but not limited to an ongoing
55 review of incident reports and outcomes, with appropriate corrective
56 action taken when necessary.

1 7. Dispensing and consultation may be done when the pharmacy techni-
2 cian is not present, under the following circumstances:

3 (A) The prescription has been prepared by the pharmacy technician and
4 checked by the licensed pharmacist;

5 (B) The prescription area is locked;

6 (C) A separate locked drawer or cabinet is maintained for
7 prescriptions ready for dispensing;

8 (D) A log is maintained by the pharmacy technician of prescriptions
9 placed in the locked drawer or cabinet;

10 (E) A record shall be made by the pharmacist as to the date and time
11 at which dispensing and counseling occurs; and

12 (F) Unlicensed persons trained in the use of the audio link and video
13 link, to the licensed pharmacist, are on hand, to assist the patients.

14 8. The holder of the central pharmacy registration or the pharmacist
15 in charge of the central pharmacy shall apply for a registration for the
16 remote site pharmacy. A remote site pharmacy registration is hereby
17 established for the purpose of conducting telepharmacy. Such registra-
18 tions are issued to a remote site pharmacy connected to a central phar-
19 macy via computer link, video link and audio link, or other functionally
20 equivalent telecommunications equipment.

21 9. To the extent of a conflict with any provision of this article and
22 article one hundred thirty-seven-A of this title, the provisions of this
23 article govern with respect to a telepharmacy and a remote site pharmacy
24 operating in compliance with this chapter. With the following condi-
25 tions, this section is an exception to the following rules:

26 (A) The remote site pharmacy shall have a pharmacy technician present
27 and a working computer, video and audio link, or other functionally
28 equivalent telecommunications equipment connected to a pharmacist at all
29 times the prescription area is open. The communication link shall be
30 checked daily and the remote site pharmacy shall be closed if such link
31 malfunctions, unless a pharmacist is physically at the remote site phar-
32 macy or until the link returns to working operation. The pharmacy tech-
33 nician shall meet the following minimum requirements:

34 (i) The pharmacy technician shall be registered with the state board
35 of pharmacy.

36 (ii) The pharmacy technician shall be a graduate of an approved phar-
37 macy technician education program or must make application to the state
38 board of pharmacy, which demonstrates knowledge and experience in prepa-
39 ration of prescriptions for dispensing and working with patients.

40 (B) A pharmacist may oversee no more than four remote site pharmacies.
41 As dispensing is considered done by the pharmacist, the pharmacist shall
42 be held responsible for and held accountable for the remote site pharma-
43 cy.

44 (C) The pharmacy technician may unlock the prescription and storage
45 areas. While the pharmacy technician is on duty, the prescription area
46 may remain open.

47 (D) The input of drug information shall be done by a pharmacist at the
48 central pharmacy or if entered by a pharmacy technician at the remote
49 site pharmacy or at the central pharmacy, shall be verified by a pharma-
50 cist.

51 (i) New prescriptions may be received at the central pharmacy and
52 entered there with a label printing at the remote site pharmacy; and

53 (ii) New prescriptions received at the remote site pharmacy may be
54 entered into the computer system there with all verification, inter-
55 action checking and profile review shall be the responsibility of the
56 pharmacist.

1 10. The state board of pharmacy may immediately suspend the registra-
2 tion of any remote site pharmacy if a danger to the public exists.

3 11. In a hospital which is utilizing telepharmacy, pursuant to this
4 section, no prescription order may be released for administration to a
5 patient until approved by a pharmacist via the audio link, video link
6 and computer link, or other functionally equivalent telecommunications
7 equipment. The policy and procedures of the hospital pharmacy shall
8 address all aspects of the telepharmacy operation, including, but not
9 limited to, the control of the pharmacy by the pharmacy technician in
10 the absence of the pharmacist.

11 § 3. This act shall take effect immediately.