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:

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

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.

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.

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

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.

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.

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

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

LBD11017-02-3

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

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

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

(B) prescriptions filled at the remote site pharmacy shall be distinguishable on records from those filled at the central pharmacy;

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

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

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

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

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

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

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

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

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

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

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

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

7. Dispensing and consultation may be done when the pharmacy technician is not present, under the following circumstances:

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

(B) The prescription area is locked;

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

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

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

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

8. The holder of the central pharmacy registration or the pharmacist in charge of the central pharmacy shall apply for a registration for the remote site pharmacy. A remote site pharmacy registration is hereby established for the purpose of conducting telepharmacy. Such registrations are issued to a remote site pharmacy connected to a central pharmacy via computer link, video link and audio link, or other functionally equivalent telecommunications equipment.

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

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

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

(ii) The pharmacy technician shall be a graduate of an approved pharmacy technician education program or must make application to the state board of pharmacy, which demonstrates knowledge and experience in preparation of prescriptions for dispensing and working with patients.

(B) A pharmacist may oversee no more than four remote site pharmacies. As dispensing is considered done by the pharmacist, the pharmacist shall be held responsible for and held accountable for the remote site pharmacy.

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

(D) The input of drug information shall be done by a pharmacist at the central pharmacy or if entered by a pharmacy technician at the remote site pharmacy or at the central pharmacy, shall be verified by a pharmacist.

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

(ii) New prescriptions received at the remote site pharmacy may be entered into the computer system there with all verification, interaction checking and profile review shall be the responsibility of the pharmacist.

10. The state board of pharmacy may immediately suspend the registration of any remote site pharmacy if a danger to the public exists.

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

§ 3. This act shall take effect immediately.