STATE OF NEW YORK

8004

2023-2024 Regular Sessions

IN ASSEMBLY

September 1, 2023

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

AN ACT to amend the education law and the public health law, in relation to permitting certain nurses to perform medication related tasks provided by a certified medication aide

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

Section 1. Section 6908 of the education law is amended by adding a new subdivision 3 to read as follows:

3. This article shall not be construed as prohibiting medication related tasks provided by a certified medication aide in accordance with regulations developed by the commissioner, in consultation with the commissioner of health. At a minimum, such regulations shall:

a. specify the medication-related tasks that may be performed by certified medication aides pursuant to this subdivision. Such tasks shall include the administration of medications which are routine and pre-filled or otherwise packaged in a manner that promotes relative ease of administration, provided that administration of medications by injection, sterile procedures, and central line maintenance shall be prohibited. Provided, however, such prohibition shall not apply to injections of insulin or other injections for diabetes care, to injections of low molecular weight heparin, and to pre-filled auto-injections of naloxone and epinephrine for emergency purposes, and provided, further, that entities employing certified medication aides pursuant to this subdivision shall establish a systematic approach to address drug diversion;

b. provide that medication-related tasks performed by certified medication aides may be performed only under the supervision of a registered professional nurse licensed in New York state, as set forth in this subdivision and subdivision twelve of section sixty-nine hundred nine of this article, where such nurse is employed by a residential health care

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

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facility licensed pursuant to article twenty-eight of the public health law;

c. establish a process by which a registered professional nurse may assign medication-related tasks to a certified medication aide. Such process shall include, but not be limited to:

(i) allowing assignment of medication-related tasks to a certified medication aide only where such certified medication aide has demonstrated to the satisfaction of the supervising registered professional nurse competency in every medication-related task that such certified medication aide is authorized to perform, a willingness to perform such medication-related tasks, and the ability to effectively and efficiently communicate with the individual receiving services and understand such individual's needs;

(ii) authorizing the supervising registered professional nurse to revoke any assigned medication-related task from a certified medication aide for any reason; and

(iii) authorizing multiple registered professional nurses to jointly agree to assign medication-related tasks to a certified medication aide, provided further that only one registered professional nurse shall be required to determine if the certified medication aide has demonstrated competency in the medication-related task to be performed;

d. provide that medication-related tasks may be performed only in accordance with and pursuant to an authorized health practitioner's ordered care;

e. provide that only a certified nurse aide may perform medication-related tasks as a certified medication aide when such aide has:

(i) a valid New York state nurse aide certificate;

(ii) a high school diploma, GED or similar education credential;

(iii) evidence of being at least eighteen years old;

(iv) at least one year of experience providing nurse aide services in an article twenty-eight residential health care facility;

(v) the ability to read, write, and speak English and to perform basic math skills;

(vi) completed the requisite training and demonstrated competencies of a certified medication aide as determined by the commissioner in consultation with the commissioner of health;

(vii) successfully completed competency examinations satisfactory to the commissioner in consultation with the commissioner of health; and

(viii) meets other appropriate qualifications as determined by the commissioner in consultation with the commissioner of health;

f. prohibit a certified medication aide from holding themself out, or accepting employment as, a person licensed to practice nursing under the provisions of this article;

g. provide that a certified medication aide is not required nor permitted to assess the medication or medical needs of an individual;

h. provide that a certified medication aide shall not be authorized to perform any medication-related tasks or activities pursuant to this subdivision that are outside the scope of practice of a licensed practical nurse or any medication-related tasks that have not been appropriately assigned by the supervising registered professional nurse;

i. provide that a certified medication aide shall document all medication-related tasks provided to an individual, including medication administration to each individual through the use of a medication administration record; and

j. provide that the supervising registered professional nurse shall retain the discretion to decide whether to assign medication-related

tasks to certified medication aides under this program and shall not be subject to coercion, retaliation, or the threat of retaliation.

§ 2. Section 6909 of the education law is amended by adding a new subdivision 12 to read as follows:

12. A registered professional nurse, while working for a residential health care facility licensed pursuant to article twenty-eight of the public health law, may, in accordance with this subdivision, assign certified medication aides to perform medication-related tasks for individuals pursuant to the provisions of subdivision three of section sixty-nine hundred eight of this article and supervise certified medication aides who perform assigned medication-related tasks.

§ 3. Paragraph (a) of subdivision 3 of section 2803-j of the public health law, as added by chapter 717 of the laws of 1989, is amended to read as follows:

(a) Identification of individuals who have successfully completed a nurse aide training and competency evaluation program, [~~or~~] a nurse aide competency evaluation program**, or a medication aide program**;

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.