

# 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:

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

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

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

20 b. provide that medication-related tasks performed by certified medi-  
21 cation aides may be performed only under the supervision of a registered  
22 professional nurse licensed in New York state, as set forth in this  
23 subdivision and subdivision twelve of section sixty-nine hundred nine of  
24 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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1 facility licensed pursuant to article twenty-eight of the public health  
2 law;

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

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

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

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

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

25 e. provide that only a certified nurse aide may perform medication-re-  
26 lated tasks as a certified medication aide when such aide has:

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

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

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

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

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

34 (vi) completed the requisite training and demonstrated competencies of  
35 a certified medication aide as determined by the commissioner in consul-  
36 tation with the commissioner of health;

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

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

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

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

46 h. provide that a certified medication aide shall not be authorized to  
47 perform any medication-related tasks or activities pursuant to this  
48 subdivision that are outside the scope of practice of a licensed practi-  
49 cal nurse or any medication-related tasks that have not been appropri-  
50 ately assigned by the supervising registered professional nurse;

51 i. provide that a certified medication aide shall document all medica-  
52 tion-related tasks provided to an individual, including medication  
53 administration to each individual through the use of a medication admin-  
54 istration record; and

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

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

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

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

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

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

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