

STATE OF NEW YORK

9702

IN ASSEMBLY

April 3, 2024

Introduced by M. of A. SEAWRIGHT, STIRPE, LUPARDO, BUTTENSCHON, FORREST, McDONALD -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to including nurse practitioners as a provider of services for purposes of collaborative drug therapy management; 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 authorization for pharmacists to perform collaborative drug therapy management permanent

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

Section 1. Section 6801-a of the education law, as amended by chapter 238 of the laws of 2015, is amended to read as follows:

§ 6801-a. Collaborative drug therapy management [~~demonstration program~~]. 1. As used in this section, the following terms shall have the following meanings:

a. "Board" shall mean the state board of pharmacy as established by section sixty-eight hundred four of this article.

b. "Clinical services" shall mean the collection and interpretation of patient data for the purpose of initiating, modifying and monitoring drug therapy with associated accountability and responsibility for outcomes in a direct patient care setting.

c. "Collaborative drug therapy management" shall mean the performance of clinical services by a pharmacist relating to the review, evaluation and management of drug therapy to a patient, who is being treated by a physician or nurse practitioner for a specific disease or associated disease states, in accordance with a written agreement or protocol with a voluntarily participating physician or nurse practitioner and in accordance with the policies, procedures, and protocols of the facility. Such agreement or protocol as entered into by the physician or nurse practitioner and a pharmacist, may include, and shall be limited to:

(i) adjusting or managing a drug regimen of a patient, pursuant to a patient specific order or protocol made by the patient's physician or

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

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1 nurse practitioner, which may include adjusting drug strength, frequency
2 of administration or route of administration. Adjusting the drug regimen
3 shall not include substituting or selecting a different drug which
4 differs from that initially prescribed by the patient's physician or
5 nurse practitioner unless such substitution is expressly authorized in
6 the written order or protocol. The pharmacist shall be required to imme-
7 diately document in the patient record changes made to the patient's
8 drug therapy and shall use any reasonable means or method established by
9 the facility to notify the patient's other treating physicians or nurse
10 practitioners with whom he or she does not have a written agreement or
11 protocol regarding such changes. The patient's physician or nurse prac-
12 titioner may prohibit, by written instruction, any adjustment or change
13 in the patient's drug regimen by the pharmacist;

14 (ii) evaluating and, only if specifically authorized by the protocol
15 and only to the extent necessary to discharge the responsibilities set
16 forth in this section, ordering disease state laboratory tests related
17 to the drug therapy management for the specific disease or disease state
18 specified within the written agreement or protocol; and

19 (iii) only if specifically authorized by the written agreement or
20 protocol and only to the extent necessary to discharge the responsibil-
21 ities set forth in this section, ordering or performing routine patient
22 monitoring functions as may be necessary in the drug therapy management,
23 including the collecting and reviewing of patient histories, and order-
24 ing or checking patient vital signs, including pulse, temperature, blood
25 pressure and respiration.

26 d. "Facility" shall mean: (i) a [~~teaching hospital or general~~] hospi-
27 tal, [~~including any diagnostic center, treatment center, or hospital-~~
28 ~~based outpatient department~~] as defined in subdivision one of section
29 twenty-eight hundred one of the public health law; or (ii) a nursing
30 home with an on-site pharmacy staffed by a licensed pharmacist;
31 provided, however, for the purposes of this section the term "facility"
32 shall not include dental clinics, dental dispensaries, residential
33 health care facilities and rehabilitation centers.

34 [~~For the purposes of this section, a "teaching hospital" shall mean a~~
35 ~~hospital licensed pursuant to article twenty-eight of the public health~~
36 ~~law that is eligible to receive direct or indirect graduate medical~~
37 ~~education payments pursuant to article twenty-eight of the public health~~
38 ~~law.~~] In addition, a facility may also include up to fifteen community-
39 practice sites, selected by the department in consultation with the
40 department of health, where pharmacists and physicians or nurse practi-
41 tioners may propose to enter into collaborative arrangements, pursuant
42 to the provisions of this section. Such sites shall be selected based
43 upon a review of applications submitted to the department by such phar-
44 macists and physicians or nurse practitioners, which demonstrate that
45 the applicants can satisfy the requirements of this section.

46 e. "Physician" or "nurse practitioner" shall mean the physician or
47 nurse practitioner selected by or assigned to a patient, who has primary
48 responsibility for the treatment and care of the patient for the disease
49 and associated disease states that are the subject of the collaborative
50 drug therapy management.

51 f. "Written agreement or protocol" shall mean a written document,
52 pursuant to and consistent with any applicable state or federal require-
53 ments, that addresses a specific disease or associated disease states
54 and that describes the nature and scope of collaborative drug therapy
55 management to be undertaken by the pharmacists, in collaboration with

1 the participating physician or nurse practitioner in accordance with the
2 provisions of this section.

3 2. a. A pharmacist who meets the experience requirements of paragraph
4 b of this subdivision and who is either employed by or otherwise affil-
5 iated with a facility or is participating with a community-practice site
6 selected pursuant to paragraph d of subdivision one of this section
7 shall be permitted to enter into a written agreement or protocol with a
8 physician or nurse practitioner authorizing collaborative drug therapy
9 management, subject to the limitations set forth in this section, within
10 the scope of such employment [~~or~~], affiliation or participation.

11 b. A participating pharmacist must:

12 (i)(A) have been awarded either a master of science in clinical phar-
13 macy or a doctor of pharmacy degree;

14 (B) maintain a current unrestricted license; and

15 (C) have a minimum of two years experience, of which at least one year
16 of such experience shall include clinical experience in a health facili-
17 ty, which involves consultation with physicians or nurse practitioners
18 with respect to drug therapy and may include a residency at a facility
19 involving such consultation; or

20 (ii)(A) have been awarded a bachelor of science in pharmacy;

21 (B) maintain a current unrestricted license; and

22 (C) within the last seven years, have a minimum of three years experi-
23 ence, of which at least one year of such experience shall include clin-
24 ical experience in a health facility, which involves consultation with
25 physicians or nurse practitioners with respect to drug therapy and may
26 include a residency at a facility involving such consultation; and

27 (iii) meet any additional education, experience, or other requirements
28 set forth by the department in consultation with the board.

29 c. Notwithstanding any provision of law, nothing in this section shall
30 prohibit a licensed pharmacist from engaging in clinical services asso-
31 ciated with collaborative drug therapy management, in order to gain
32 experience necessary to qualify under clause (C) of subparagraph (i) or
33 (ii) of paragraph b of this subdivision, provided that such practice is
34 under the supervision of a pharmacist that currently meets the refer-
35 enced requirement, and that such practice is authorized under the writ-
36 ten agreement or protocol with the physician or nurse practitioner.

37 d. Notwithstanding any provision of this section, nothing herein shall
38 authorize the pharmacist to diagnose disease. In the event that a treat-
39 ing physician or nurse practitioner may disagree with the exercise of
40 professional judgment by a pharmacist, the judgment of the treating
41 physician or nurse practitioner shall prevail.

42 3. The physician or nurse practitioner who is a party to a written
43 agreement or protocol authorizing collaborative drug therapy management
44 shall be employed by or otherwise affiliated with the same facility with
45 which the pharmacist is also employed or affiliated.

46 4. The existence of a written agreement or protocol on collaborative
47 drug therapy management and the patient's right to choose to not partic-
48 ipate in collaborative drug therapy management shall be disclosed to any
49 patient who is eligible to receive collaborative drug therapy manage-
50 ment. Collaborative drug therapy management shall not be utilized unless
51 the patient or the patient's authorized representative consents, in
52 writing, to such management. If the patient or the patient's authorized
53 representative consents, it shall be noted on the patient's medical
54 record. If the patient or the patient's authorized representative who
55 consented to collaborative drug therapy management chooses to no longer
56 participate in such management, at any time, it shall be noted on the

1 patient's medical record. In addition, the existence of the written
2 agreement or protocol and the patient's consent to such management shall
3 be disclosed to the patient's primary physician or nurse practitioner
4 and any other treating physician or nurse practitioner or healthcare
5 provider.

6 5. Participation in a written agreement or protocol authorizing colla-
7 borative drug therapy management shall be voluntary, and no patient,
8 physician or nurse practitioner, pharmacist, or facility shall be
9 required to participate.

10 6. Nothing in this section shall be deemed to limit the scope of prac-
11 tice of pharmacy nor be deemed to limit the authority of pharmacists and
12 physicians or nurse practitioners to engage in medication management
13 prior to the effective date of this section and to the extent authorized
14 by law.

15 § 2. Section 5 of chapter 21 of the laws of 2011 amending the educa-
16 tion law relating to authorizing pharmacists to perform collaborative
17 drug therapy management with physicians in certain settings, as amended
18 by section 5 of part CC of chapter 57 of the laws of 2022, is amended to
19 read as follows:

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

32 § 3. This act shall take effect on the one hundred twentieth day after
33 it shall have become a law. Effective immediately, the addition, amend-
34 ment and/or repeal of any rule or regulation necessary for the implemen-
35 tation of this act on its effective date are authorized to be made and
36 completed on or before such effective date.