

STATE OF NEW YORK

10371

IN ASSEMBLY

March 3, 2026

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

AN ACT to amend the education law, in relation to expanding circumstances when direct support staff may administer medications; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Subparagraph (v) of paragraph (a) of subdivision 1 of
2 section 6908 of the education law, as added by section 1 of part A of
3 chapter 58 of the laws of 2014, is amended to read as follows:

4 (v) tasks provided by a direct support staff in programs certified or
5 approved by the office for people with developmental disabilities,
6 including self-direction, when ~~[performed under]~~ the ~~[supervision of a~~
7 ~~registered professional nurse and pursuant to a memorandum of under-~~
8 ~~standing between the office for people with]~~ direct support staff has
9 completed training provided by the individual with an intellectual or
10 developmental [disabilities and the department, in accordance with and
11 pursuant to an] disability, or, when applicable, by the individual's
12 parent, legal guardian, or other legally authorized [practitioner's
13 ordered care, provided that: (1) a registered professional nurse deter-
14 mines] representative, in ~~[his or her professional judgment, which tasks~~
15 ~~are to be performed based upon the complexity of the tasks,]~~ accordance
16 with consumer-directed principles. The commissioner shall establish
17 appropriate protocols to ensure the [skill and experience of the] safe
18 administration of medications and to ensure that a direct support
19 staff~~[, and]~~ shall not assess the ~~[health status of the]~~ medication
20 needs of an individual ~~[being cared for; (2) only a]~~. A direct support
21 staff ~~[who]~~ has completed training as required by the commissioner of
22 the office for people with developmental disabilities ~~[may perform~~
23 ~~tasks]~~ pursuant to this subparagraph~~[, (3)]~~ provided that the commis-
24 sioner establish appropriate protocols shall be established to ensure
25 safe administration of medications~~[, (4)]~~ and to ensure that a direct
26 support staff shall not assess the medication needs of an individual~~[, (5)~~
27 ~~adequate nursing supervision is provided, including training and~~

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

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1 ~~periodic inspection of performance of the tasks. The amount and type of~~
2 ~~nursing supervision shall be determined by the registered professional~~
3 ~~nurse responsible for supervising such task based upon the complexity of~~
4 ~~the tasks, the skill and experience of the direct support staff, and the~~
5 ~~health status of the individual being cared for; (6) a]. A direct~~
6 support staff shall not be authorized to perform any tasks or activities
7 pursuant to this subparagraph that are outside the scope of practice of
8 a licensed practical nurse[~~;(7) a]. A direct support staff shall not~~
9 represent [~~himself or herself~~] themselves, or accept employment, as a
10 person licensed to practice nursing under the provisions of this arti-
11 cle[~~;(8)]. A direct support staff providing medication administration,~~
12 tube feeding, or diabetic care shall be separately certified, and shall
13 be recertified on an annual basis[~~;(9) the registered professional~~
14 ~~nurse shall ensure that there is a consumer specific]. If an individual~~
15 with an intellectual or developmental disability is unable to self-ad-
16 minister medication [~~sheet for each medication that is administered, and~~
17 ~~(10) appropriate staffing ratios shall be determined by the office for~~
18 ~~people with developmental disabilities and the department to ensure~~
19 ~~adequate nursing supervision. No direct support staff shall perform~~
20 ~~tasks under this subparagraph until the office for people with develop-~~
21 ~~mental disabilities and the department have entered into a memorandum of~~
22 ~~understanding to effectuate the provisions of this subparagraph. The~~
23 ~~office for people with developmental disabilities shall complete a crim-~~
24 ~~inal background check pursuant to section 16.33 of the mental hygiene~~
25 ~~law and an agency background check pursuant to section 16.34 of the~~
26 ~~mental hygiene law on the direct support staff prior to the commencement~~
27 ~~of any provision of service provided under this subparagraph if such~~
28 ~~direct support staff is a new hire. Individuals providing supervision~~
29 ~~or~~] , a parent, legal guardian, or other legally authorized represen-
30 tative may authorize a trained direct support [~~tasks pursuant to this~~
31 ~~subparagraph shall have protection pursuant] professional to [~~sections~~
32 ~~seven hundred forty and seven hundred forty one of] administer medica-
33 tions on the [~~labor law, where applicable] individual's behalf;
34 § 2. This act shall take effect on the one hundred eightieth day after
35 it shall have become a law and shall expire and be deemed repealed July
36 1, 2030. Effective immediately, the addition, amendment and/or repeal of
37 any rule or regulation necessary for the implementation of this act on
38 its effective date are authorized to be made on or before such date.~~~~~~