

STATE OF NEW YORK

6334

2025-2026 Regular Sessions

IN SENATE

March 10, 2025

Introduced by Sen. FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to expanding the description of certain services which are not prohibited by statutes governing the practice of nursing

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 is renumbered subparagraph (vi) and a
3 new subparagraph (v) is added to read as follows:

4 (v) tasks provided by a direct support staff in non-facility based
5 programs certified or approved by the office for people with develop-
6 mental disabilities, when performed under the instruction of a service
7 recipient, family, or household member in accordance with and pursuant
8 to an authorized practitioner's ordered care, provided that:

9 (1) a registered professional nurse determines, in their professional
10 judgment, which tasks are to be performed based upon:

11 (A) the complexity of the tasks;

12 (B) the skill and experience of the direct support staff;

13 (C) the health status and specific care needs of the service recipi-
14 ent; and

15 (D) the service recipient, family, or household member is able to
16 effectively and efficiently train and instruct the direct support staff
17 providing tasks;

18 (2) only a direct support staff that has completed training as
19 required by the commissioner of the office for people with developmental
20 disabilities may perform tasks pursuant to this subparagraph;

21 (3) a direct support staff shall not assess the medication needs of an
22 individual;

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

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1 (4) a direct support staff shall not be authorized to perform any
2 tasks or activities pursuant to this subparagraph that are outside the
3 scope of practice of a licensed practical nurse;

4 (5) a direct support staff shall not represent themselves, or accept
5 employment, as a person licensed to practice nursing under the
6 provisions of this article;

7 (6) a direct support staff providing medication administration, tube
8 feeding, or diabetic care shall be separately certified, and shall be
9 recertified on an annual basis;

10 (7) in the event that a registered professional nurse determines that
11 the service recipient, family, or household member is not capable of
12 providing such instruction, a direct support staff shall not provide
13 tasks pursuant to this subparagraph. In the event of any disagreement
14 between a registered professional nurse and a service recipient, family,
15 or household member regarding such capability, then the registered
16 professional nurse's determination shall prevail;

17 (8) a direct support staff shall not provide any tasks unless a regis-
18 tered professional nurse has determined that such task may be performed;
19 and

20 (9) the office for people with developmental disabilities shall
21 complete a criminal background check pursuant to section 16.33 of the
22 mental hygiene law and a background check pursuant to section 16.34 of
23 the mental hygiene law on the direct support staff prior to the
24 commencement of any provision of service provided under this subpara-
25 graph if such direct support staff is a new hire. Licensed registered
26 professional nurses and individuals providing direct support tasks
27 pursuant to this subparagraph shall have protection pursuant to sections
28 seven hundred forty and seven hundred forty-one of the labor law, where
29 applicable; or

30 § 2. This act shall take effect eighteen months after it shall have
31 become a law, and shall expire and be deemed repealed July 1, 2030.
32 Effective immediately, the addition, amendment and/or repeal of any rule
33 or regulation necessary for the implementation of this act on its effec-
34 tive date are authorized to be made and completed on or before such
35 effective date.