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:

Section 1. Subparagraph (v) of paragraph (a) of subdivision 1 of section 6908 of the education law is renumbered subparagraph (vi) and a new subparagraph (v) is added to read as follows:

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

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

(A) the complexity of the tasks;

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

(C) the health status and specific care needs of the service recipient; and

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

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

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

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

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

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

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

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

(8) a direct support staff shall not provide any tasks unless a registered professional nurse has determined that such task may be performed; and

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

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