

MEDICAL SOCIETY of the STATE OF NEW YORK

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Senior Vice President /
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Division of Governmental Affairs

MEMORANDUM IN OPPOSITION

CLICK [HERE](#) FOR BILL STATUS

A.5805 (McDONALD)

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S.4857 (LAVALLE)

AN ACT to amend the education law, in relation to authorizing pharmacists to perform collaborative drug therapy management, and to amend chapter 21 of the laws of 2011 amending the education law relating to authorizing pharmacies to perform collaborative drug therapy management with physicians in certain settings, in relation to making such provisions permanent

This measure would make permanent Chapter 21 of the Laws of 2011, but would also amend that Chapter significantly. Because of the amendments, **the Medical Society of the State of New York strongly opposes this bill.**

The bill's definition of "collaborative drug therapy management" is expanded to include patients being treated physician assistants and nurse practitioners, not just physicians; and to extend to unspecified disease states.

This bill allows a pharmacist to prescribe in order to adjust or manage a drug regimen of a patient, and adds a non-patient-specific protocol. The current law only allows a pharmacist to adjust or manage a drug regimen and is limited to a patient-specific protocol. The bill eliminates wording which said that "adjusting the drug regimen shall not include substituting or selecting a different drug", thereby allowing the pharmacist to substitute or select a different drug. Moreover, the bill would eliminate the requirement to "immediately" enter into the patient record any changes made and instead requires the pharmacist to "document" the changes in the patient record with no time limitation.

The wording was also deleted relating to collection and review of patient histories, and ordering or checking patient vital signs, including pulse, temperature, blood pressure and respiration.

The definition of "facility" is expanded to include nursing home, home or any facility as defined in section 2801 of the public health law or other entity that provides direct patient care under the auspices of a medical director.

A pharmacist, pursuant to this bill, would no longer have to be employed or otherwise affiliated with a facility. They would also not be required to meet the specific and meaningful educational and training requirements set forth in the initial law.

Instead, the pharmacist must satisfy any two of the following more minimalistic criteria:

- Certification in a relevant area of practice including, but not limited to ambulatory care, critical care, geriatric pharmacy, nuclear pharmacy, nutrition support pharmacy, oncology pharmacy, pediatric pharmacy, pharmacotherapy, or psychiatric pharmacy, from a national accrediting body approved by the department;
- Postgraduate residency through an accredited postgraduate program
- Have provided clinical services to patients for at least one year, either:
 1. under a collaborative practice agreement or protocol with a physician, physician assistant, nurse practitioner or facility; or
 2. has documented experience in provision of clinical services to patients for at least one year or 1,000 hours and deemed acceptable to the department upon recommendation of the board of pharmacy.
 3. Nothing in this section prohibits a licensed pharmacist from engaging in clinical practice associated with collaborative drug therapy management in order to gain experience necessary to qualify under item 2 above, provided that such practice is under the supervision of a pharmacist that currently meets the requirement, and is authorized under the protocol with the involved physician, physician assistant, nurse practitioner or facility.

The pharmacist may enter into a written collaborative drug therapy agreement as an independent health care provider and no longer will have to be employed by or otherwise affiliated with the same facility with which the physician is employed or affiliated.

Importantly, the current law calls for the Department of Education, in consultation with the Department of Health, to prepare a report on the implementation of collaborative drug therapy management in New York State, to be submitted to the Speaker of the Assembly, Temporary President of the Senate, chairs of the Senate and Assembly Higher Education Committees at least four months prior to the expiration of the act. The report is to review the extent to which the CDTM was implemented in New York State and examine whether and the extent to which CDTM contributed to the improvement of quality of care for patients, reduced the risk of medication error, reduced unnecessary health care expenditures, and was otherwise in the public interest. The report is to make recommendations regarding the extension, alteration, and/or expansion of the provisions and any other recommendations related to the implementation of CDTM pursuant to the act. **This extremely lengthy report was just issued May 6, 2014, and there has not been time for people to read and interpret its recommendations.**

The amendments in this bill substantially expand the scope of practice of the pharmacist, well beyond the intent of the current law. Respectfully, we should not expand the program until such time as the report has been issued and thoroughly reviewed. For this and the above stated reasons, **The Medical Society of the State of New York strongly opposes this bill and urges that it not be passed.**

Respectfully submitted,

ELIZABETH DEARS KENT, ESQ.

**5/19/15 – Oppose
BKE**