

# PROGRAM BILL # 37

Legislative Bill Drafting Commission  
12086-01-4

S. -----  
Senate  
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IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*EDUCLA\***  
(Relates to the development of  
training curricula and competency  
tasks to be performed by home health  
aides)

Ed L. home health aides; training

## AN ACT

to amend the education law, in  
relation to developing training  
curricula and competency require-  
ments for tasks to be performed by  
advanced home health aides; to amend  
the public health law, in relation  
to defining advanced home health  
aides and indicating advanced home  
health aides on the home care  
services worker registry; in  
relation to the establishment of a  
workgroup to provide guidance on

## IN SENATE

### Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s15 Addabbo	s02 Flanagan	s28 Krueger	s55 O'Brien	s51 Seward
s11 Avella	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s40 Ball	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s42 Bonacic	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s04 Boyle	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s44 Breslin	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart- Cousins
s38 Carlucci	s60 Grisanti	s45 Little	s48 Ritchie	s46 Tkaczyk
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s33 Rivera	s53 Valesky
s32 Diaz	s36 Hassell-	s43 Marchione	s56 Robach	s57 Young
s18 Dilan	Thompson	s07 Martins	s19 Sampson	s03 Zeldin
s31 Espaillat	s27 Hoylman	s62 Maziarz	s10 Sanders	s08
s49 Farley	s63 Kennedy	s25 Montgomery	s23 Savino	s20
s17 Felder	s34 Klein	s54 Nozzolio	s29 Serrano	

## IN ASSEMBLY

### Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a147 DiPietro	a076 Kellner	a132 Palmesano	a099 Skoufis
a092 Abinanti	a115 Duprey	a040 Kim	a002 Palumbo	a022 Solages
a084 Arroyo	a004 Englebright	a131 Kolb	a088 Paulin	a114 Stec
a035 Aubry	a109 Fahy	a105 Lalor	a141 Peoples-	a110 Steck
a120 Barclay	a071 Farrell	a013 Lavine	Stokes	a127 Stirpe
a106 Barrett	a126 Finch	a050 Lentol	a058 Perry	a011 Sweeney
a082 Benedetto	a008 Fitzpatrick	a125 Lifton	a086 Pichardo	a112 Tedisco
a117 Blankenbush	a124 Friend	a102 Lopez, P.	a089 Pretlow	a101 Tenney
a062 Borelli	a095 Galef	a123 Lupardo	a073 Quart	a001 Thiele
a026 Braunstein	a137 Gantt	a010 Lupinacci	a019 Ra	a061 Titone
a044 Brennan	a007 Garbarino	a121 Magee	a012 Raia	a031 Titus
a119 Brindisi	a148 Giglio	a129 Magnarelli	a006 Ramos	a146 Walter
a138 Bronson	a080 Gjonaj	a064 Malliotakis	a078 Rivera	a041 Weinstein
a046 Brook-Krasny	a066 Glick	a030 Markey	a128 Roberts	a020 Weisenberg
a093 Buchwald	a023 Goldfeder	a090 Mayer	a056 Robinson	a024 Weprin
a118 Butler	a150 Goodell	a108 McDonald	a068 Rodriguez	a070 Wright
a103 Cahill	a075 Gottfried	a014 McDonough	a072 Rosa	a096 Zebrowski
a043 Camara	a005 Graf	a017 McKeivitt	a067 Rosenthal	a054
a145 Ceretto	a100 Gunther	a107 McLaughlin	a025 Rozic	a055
a033 Clark	a139 Hawley	a038 Miller	a116 Russell	a059
a047 Colton	a083 Heastie	a052 Millman	a149 Ryan	a060
a032 Cook	a003 Hennessey	a015 Montesano	a009 Saladino	a077
a144 Corwin	a028 Hevesi	a136 Morelle	a111 Santabarbara	a079
a085 Crespo	a048 Hikind	a057 Mosley	a029 Scarborough	a098
a122 Crouch	a018 Hooper	a039 Moya	a016 Schimel	a113
a021 Curran	a042 Jacobs	a133 Nojay	a140 Schimminger	a134
a063 Cusick	a097 Jaffee	a037 Nolan	a087 Sepulveda	a143
a045 Cymbrowitz	a135 Johns	a130 Oaks	a065 Silver	
a053 Davila	a094 Katz	a069 O'Donnell	a027 Simanowitz	
a034 DenDekker	a074 Kavanagh	a051 Ortiz	a036 Simotas	
a081 Dinowitz	a142 Kearns	a091 Otis	a104 Skartados	

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and 4 copies of memorandum in support (single house);  
or 4 signed copies of bill and 8 copies of memorandum  
in support (uni-bill).

matters including, but not limited to, the tasks to be performed by advanced home health aides; and providing for the repeal of certain 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 section  
2 6908 of the education law is renumbered subparagraph (vi) and a new  
3 subparagraph (v) is added to read as follows:

4 (v) tasks provided by an advanced home health aide in accordance with  
5 regulations developed in consultation with the commissioner of health  
6 which, at a minimum, shall: (1) specify the tasks that may be performed  
7 by advanced home health aides pursuant to this subparagraph ("advanced  
8 tasks"), which shall include the administration of medications which are  
9 routine and prefilled or otherwise packaged in a manner that promotes  
10 relative ease of administration; (2) provide that advanced tasks  
11 performed by advanced home health aides may be performed only under the  
12 direct supervision of a registered professional nurse licensed in New  
13 York state and employed by a home care services agency licensed or  
14 certified pursuant to article thirty-six or hospice program certified  
15 pursuant to article forty of the public health law, where such nursing  
16 supervision (A) includes training and periodic assessment of the  
17 performance of advanced tasks, (B) shall be determined by the registered  
18 professional nurse responsible for supervising such advanced tasks based  
19 upon the complexity of such advanced tasks, the skill and experience of  
20 the advanced home health aide, and the health status of the individual  
21 for whom such advanced tasks are being performed, and (C) includes a  
22 comprehensive assessment of the individual's needs; (3) provide that  
23 advanced tasks may be performed only in accordance with and pursuant to  
24 an authorized practitioner's ordered care; (4) provide that only a home  
25 health aide who has at least one year of experience as a certified home  
26 health aide, has completed the requisite training and demonstrated  
27 competencies of an advanced home health aide, has successfully completed  
28 competency examinations satisfactory to the commissioner and meets other

1 appropriate qualifications may perform advanced tasks as an advanced  
2 home health aide; (5) provide that only an individual who is listed in  
3 the home care services registry maintained by the department of health  
4 pursuant to subdivision nine of section thirty-six hundred thirteen of  
5 the public health law as having satisfied all applicable training  
6 requirements and having passed the applicable competency examinations  
7 and who meets other requirements as set forth in regulations issued by  
8 the commissioner of health pursuant to subdivision seventeen of section  
9 thirty-six hundred two of the public health law may perform advanced  
10 tasks pursuant to this subparagraph and may hold himself or herself out  
11 as an advanced home health aide; (6) establish minimum standards of  
12 training for the performance of advanced tasks by advanced home health  
13 aides, including (A) didactic training, (B) clinical training, and (C) a  
14 supervised clinical practicum with standards set forth by the commis-  
15 sioner; (7) provide that advanced home health aides shall receive case-  
16 specific training on the advanced tasks to be assigned by the supervis-  
17 ing nurse, provided that additional training shall take place whenever  
18 additional advanced tasks are assigned; (8) prohibit an advanced home  
19 health aide from holding himself or herself out, or accepting employment  
20 as, a person licensed to practice nursing under the provisions of this  
21 article; (9) provide that an advanced home health aide is not required  
22 nor permitted to assess the medication needs of an individual; (10)  
23 provide that an advanced home health aide shall not be authorized to  
24 perform any tasks or activities pursuant to this subparagraph that are  
25 outside the scope of practice of a licensed practical nurse; (11)  
26 provide that an advanced home health aide shall document medication  
27 administration to each individual through the use of a medication admin-  
28 istration record; and (12) provide that the supervising registered

1 professional nurse shall retain the discretion to decide whether to  
2 assign advanced tasks to home health aides under this program and shall  
3 not be subject to coercion or the threat of retaliation; provided that  
4 in developing such regulations, the commissioner shall take into account  
5 the recommendations of a workgroup of stakeholders convened by the  
6 commissioner of health in consultation with the commissioner for the  
7 purpose of providing guidance on the foregoing; or

8 § 2. Section 3602 of the public health law is amended by adding a new  
9 subdivision 17 to read as follows:

10 17. "Advanced home health aides" means home health aides who are  
11 authorized to perform advanced tasks as delineated in subparagraph (v)  
12 of paragraph a of subdivision one of section six thousand nine hundred  
13 eight of the education law and regulations issued by the commissioner of  
14 education relating thereto. The commissioner shall promulgate regu-  
15 lations regarding such aides, which shall include a process for the  
16 limitation or revocation of the advanced home health aide's authori-  
17 zation to perform advanced tasks in appropriate cases.

18 § 3. Subdivision 9 of section 3613 of the public health law is renum-  
19 bered subdivision 10 and a new subdivision 9 is added to read as  
20 follows:

21 9. The department shall indicate within the home care services worker  
22 registry when a home health aide has satisfied all applicable training  
23 and recertification requirements and has passed the applicable competen-  
24 cy examinations necessary to perform advanced tasks pursuant to subpara-  
25 graph (v) of paragraph a of subdivision one of section six thousand nine  
26 hundred eight of the education law and regulations issued thereto. Any  
27 limitation or revocation of the advanced home health aide's authori-  
28 zation also shall be indicated on the registry.

1 § 4. The commissioner of health, in consultation with the commissioner  
2 of education, shall convene a workgroup of stakeholders to provide guid-  
3 ance on the tasks which may be performed by advanced home health aides  
4 pursuant to subparagraph (v) of paragraph a of subdivision 1 of section  
5 6908 of the education law, which shall encompass matters including but  
6 not limited to:

7 (a) the tasks that appropriately could be performed by advanced home  
8 health aides with appropriate training and supervision ("advanced  
9 tasks");

10 (b) the types of medications that advanced home health aides should be  
11 authorized to administer, including whether subcutaneous injectables and  
12 controlled substances should be authorized;

13 (c) qualifications that must be satisfied by advanced home health  
14 aides to perform advanced tasks, including those related to experience,  
15 training, moral character, and examination requirements;

16 (d) minimum training and education standards; and

17 (e) adequate levels of supervision to be provided by nurses, including  
18 adherence to existing requirements for comprehensive assessment and any  
19 additional assessment that should be required, including when the indi-  
20 vidual receiving advanced tasks performed by an advanced home health  
21 aide experiences a significant change in condition.

22 The members of such workgroup shall include individuals from academic  
23 institutions with relevant expertise, representatives of home care  
24 providers, hospice providers, nurses, nurse educators, home health aides  
25 and pharmacists, representatives of individuals who may be eligible for  
26 advanced tasks performed by advanced home health aides pursuant to such  
27 statute, and other relevant stakeholders.

28 § 5. This act shall take effect immediately; provided that:

- 1 a. section one of this act shall take effect October 1, 2015. Effec-  
2 tive immediately the commissioner of education is authorized to adopt or  
3 amend regulations necessary to implement the provisions of section one  
4 of this act on or before such effective date; provided, further, that no  
5 advanced tasks shall be performed pursuant to the provisions of subpara-  
6 graph (v) of paragraph a of subdivision 1 of section 6908 of the educa-  
7 tion law, as added by section one of this act, until such regulations  
8 are adopted and except in conformance with such regulations;
- 9 b. section four of this act shall expire and be deemed repealed Octo-  
10 ber 1, 2015; and
- 11 c. the commissioner of health shall convene the workgroup of stake-  
12 holders established pursuant to section four of this act as soon as  
13 practicable.