

4528

2013-2014 Regular Sessions

I N S E N A T E

April 8, 2013

Introduced by Sen. HANNON -- (at request of the Department of Health) --
read twice and ordered printed, and when printed to be committed to
the Committee on Health

AN ACT to amend the public health law, in relation to the statewide immunization information system; to amend the education law, in relation to the administration of certain immunizations; and to amend chapter 563 of the laws of 2008, amending the education law and the public health law relating to immunizing agents to be administered to adults by pharmacists and chapter 116 of the laws of 2012, amending the education law relating to authorizing a licensed pharmacist and certified nurse practitioner to administer certain immunizing agents, in relation to making the provisions thereof permanent

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (a) of subdivision 2 of section 2168 of the
2 public health law, as amended by section 7 of part A of chapter 58 of
3 the laws of 2009, is amended to read as follows:
4 (a) The term "authorized user" shall mean any person or entity author-
5 ized to provide information to or to receive information from the state-
6 wide immunization information system and shall include health care
7 providers and their designees, as defined in paragraph (d) of this
8 subdivision, schools as defined in paragraph a of subdivision one of
9 section twenty-one hundred sixty-four of this title, COLLEGES AS DEFINED
10 IN SECTION TWO OF THE EDUCATION LAW, PROFESSIONAL AND TECHNICAL SCHOOLS
11 AS REFERRED TO IN THE DEFINITION OF HIGHER EDUCATION IN SECTION TWO OF
12 THE EDUCATION LAW, CHILDREN'S OVERNIGHT CAMPS AND SUMMER DAY CAMPS AS
13 DEFINED IN SECTION THIRTEEN HUNDRED NINETY-TWO OF THIS CHAPTER, third
14 party payer as defined in paragraph (f) of this subdivision, local
15 health districts as defined by paragraph (c) of subdivision one of
16 section two of this chapter, local social services districts and the
17 office of children and family services with regard to children in their

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

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1 legal custody, and WIC programs as defined in paragraph (g) of this
2 subdivision. An authorized user may be located outside New York state.
3 An entity other than a local health district shall be an authorized user
4 only with respect to a person seeking or receiving a health care service
5 from the health care provider, a person enrolled or seeking to be
6 enrolled in the school, a person insured by the third party payer, a
7 person in the custody of the local social services district or the
8 office of children and family services, or a person seeking or receiving
9 services through WIC programs, as the case may be.

10 S 2. Paragraph (a) of subdivision 3 of section 2168 of the public
11 health law, as amended by section 7 of part A of chapter 58 of the laws
12 of 2009, is amended to read as follows:

13 (a) Any health care provider who administers any vaccine to a person
14 less than nineteen years of age or, on or after September first, two
15 thousand nine, conducts a blood lead analysis of a sample obtained from
16 a person under eighteen years of age in accordance with paragraph (h) of
17 subdivision two of this section; and immunizations received by a person
18 less than nineteen years of age in the past if not already reported,
19 shall report all such immunizations and the results of any blood lead
20 analysis to the department in a format prescribed by the commissioner
21 within fourteen days of administration of such immunizations or of
22 obtaining the results of any such blood lead analysis. Health care
23 providers administering immunizations to persons less than nineteen
24 years of age in the city of New York shall report, in a format
25 prescribed by the city of New York commissioner of health and mental
26 hygiene, all such immunizations to the citywide immunization registry.
27 The commissioner, and for the city of New York the commissioner of
28 health and mental hygiene, shall have the discretion to accept for
29 inclusion in the system information regarding immunizations administered
30 to individuals nineteen years of age or older with the [express written]
31 consent of the [vaccine] VACCINEE. Health care providers who conduct a
32 blood lead analysis on a person under eighteen years of age and who
33 report the results of such analysis to the city of New York commissioner
34 of health and mental hygiene pursuant to New York city reporting
35 requirements shall be exempt from this requirement for reporting blood
36 lead analysis results to the state commissioner of health; provided,
37 however, blood lead analysis data collected from physician office labo-
38 ratories by the commissioner of health and mental hygiene of the city of
39 New York pursuant to the health code of the city of New York shall be
40 provided to the department in a format prescribed by the commissioner.

41 S 3. Paragraph (f) of subdivision 5 of section 2168 of the public
42 health law, as amended by section 7 of part A of chapter 58 of the laws
43 of 2009, is amended to read as follows:

44 (f) The immunization status of children exempt from immunizations
45 pursuant to subdivision eight of [this] section TWENTY-ONE HUNDRED
46 SIXTY-FOUR OF THIS TITLE and a parent claiming exemption pursuant to
47 subdivision nine of section twenty-one hundred sixty-four of this title
48 shall be reported by the health care provider.

49 S 4. Paragraph (d) of subdivision 8 of section 2168 of the public
50 health law, as amended by section 7 of part A of chapter 58 of the laws
51 of 2009, is amended to read as follows:

52 (d) The following authorized users shall have access to the statewide
53 immunization information system and the blood lead information in such
54 system and the citywide immunization registry for the purposes stated in
55 this paragraph: (i) schools for verifying immunization status for eligi-
56 bility for admission; (ii) COLLEGES FOR VERIFYING IMMUNIZATION STATUS

1 FOR ELIGIBILITY FOR ADMISSION; (III) PROFESSIONAL AND TECHNICAL SCHOOLS
2 FOR VERIFYING IMMUNIZATION STATUS FOR ELIGIBILITY FOR ADMISSION; (IV)
3 CHILDREN'S OVERNIGHT CAMPS AND SUMMER DAY CAMPS FOR VERIFYING IMMUNIZA-
4 TION STATUS OF CHILDREN ATTENDING CAMP; (V) third party payer for
5 performing quality assurance, accountability and outreach, relating to
6 enrollees covered by the third party payer; [(iii)] (VI) commissioners
7 of local social services districts with regard to a child in his/her
8 legal custody; [(iv)] (VII) the commissioner of the office of children
9 and family services with regard to children in their legal custody, and
10 for quality assurance and accountability of commissioners of local
11 social services districts, care and treatment of children in the custody
12 of commissioners of local social services districts; and [(v)] (VIII)
13 WIC programs for the purposes of verifying immunization and lead testing
14 status for those seeking or receiving services.

15 S 5. Subdivision 8 of section 2168 of the public health law is amended
16 by adding a new paragraph (e) to read as follows:

17 (E) INSTITUTES OF HIGHER EDUCATION, MEDICAL RESEARCH CENTERS OR OTHER
18 INSTITUTIONS ENGAGED IN EPIDEMIOLOGICAL RESEARCH OR OTHER PUBLIC HEALTH
19 RESEARCH SHALL HAVE ACCESS TO DE-IDENTIFIED REGISTRANT INFORMATION IN
20 THE STATEWIDE IMMUNIZATION INFORMATION SYSTEM OR THE CITYWIDE IMMUNIZA-
21 TION REGISTRY FOR RESEARCH PURPOSES IF APPROVED BY THE COMMISSIONER OR
22 THE COMMISSIONER OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF THE
23 CITY OF NEW YORK, AS APPROPRIATE.

24 S 6. Subdivision 11 of section 2168 of the public health law, as
25 amended by section 7 of part A of chapter 58 of the laws of 2009, is
26 amended to read as follows:

27 11. The commissioner, or in the city of New York, the commissioner of
28 the department of health and mental hygiene, may provide registrant
29 specific immunization AND LEAD TEST records to other state OR CITY
30 registries AND REGISTRIES MAINTAINED BY THE INDIAN HEALTH SERVICE AND
31 TRIBAL NATIONS RECOGNIZED BY THE STATE OR THE UNITED STATES pursuant to
32 a written agreement requiring that the [out-of-state] OTHER registry
33 conform to national standards for maintaining the integrity of the data
34 and will not be used for purposes inconsistent with the provisions of
35 this section.

36 S 7. Subdivision 7 of section 6527 of the education law, as amended by
37 chapter 116 of the laws of 2012, is amended to read as follows:

38 7. [(a)] A licensed physician may prescribe and order a PATIENT
39 SPECIFIC ORDER OR non-patient specific regimen to a licensed pharmacist,
40 pursuant to regulations promulgated by the commissioner, and consistent
41 with the public health law, for administering immunizations to prevent
42 influenza [or], pneumococcal, ACUTE HERPES ZOSTER, TETANUS, DIPHTHERIA
43 OR PERTUSSIS disease and medications required for emergency treatment of
44 anaphylaxis. Nothing in this subdivision shall authorize unlicensed
45 persons to administer immunizations, vaccines or other drugs.

46 [(b) A licensed physician may prescribe and order a patient specific
47 order to a licensed pharmacist, pursuant to regulations promulgated by
48 the commissioner, and consistent with the public health law, for admin-
49 istering immunizations to prevent acute herpes zoster.]

50 S 8. Subdivision 7 of section 6909 of the education law, as amended by
51 chapter 116 of the laws of 2012, is amended to read as follows:

52 7. [(a)] A certified nurse practitioner may prescribe and order a
53 PATIENT SPECIFIC ORDER OR non-patient specific regimen to a licensed
54 pharmacist, pursuant to regulations promulgated by the commissioner, and
55 consistent with the public health law, for administering immunizations
56 to prevent influenza [or], pneumococcal, ACUTE HERPES ZOSTER, TETANUS,

1 DIPHTHERIA, OR PERTUSSIS disease and medications required for emergency
2 treatment of anaphylaxis. Nothing in this subdivision shall authorize
3 unlicensed persons to administer immunizations, vaccines or other drugs.
4 [(b) A certified nurse practitioner may prescribe and order a patient
5 specific regimen to a licensed pharmacist, pursuant to regulations
6 promulgated by the commissioner, and consistent with the public health
7 law, for administering immunizations to prevent acute herpes zoster.]
8 S 9. Subdivisions 2, 4 and 5 of section 6801 of the education law,
9 subdivisions 2 and 4 as added by chapter 563 of the laws of 2008 and
10 subdivision 5 as added by chapter 116 of the laws of 2012, are amended
11 to read as follows:
12 2. A licensed pharmacist may execute a non-patient specific regimen
13 prescribed or ordered by a licensed physician or certified nurse practi-
14 tioner, pursuant to rules and regulations promulgated by the commission-
15 er. When a licensed pharmacist administers an immunizing agent, he or
16 she shall:
17 (a) report such administration to the patient's attending primary
18 health care practitioner or practitioners, if any, pursuant to rules and
19 regulations of the commissioner; AND
20 (b) provide information to the patient on the importance of having a
21 primary health care practitioner, developed by the commissioner of
22 health[; and
23 (c) report such administration, absent of any individually identifi-
24 able health information, to the department of health in a manner
25 required by the commissioner of health].
26 4. [The commissioner of health, in consultation with the commissioner,
27 shall prepare and submit a report to the governor and the legislature,
28 on or before December thirty-first, two thousand eleven, reporting the
29 results and evaluating the effectiveness and impact, if any, of imple-
30 mentation of subdivision two of this section upon the supply of such
31 immunizing agents for the prevention of influenza and pneumococcal
32 disease, upon the geographical distribution of such agents, and upon the
33 distribution of such agents among health care providers, including
34 physicians, and pharmacies in New York state.
35 5.] When administering an immunization in a pharmacy, the licensed
36 pharmacist shall provide an area for the immunization that provides for
37 a patient's privacy.
38 S 10. Subdivision 22 of section 6802 of the education law, as amended
39 by chapter 116 of the laws of 2012, is amended to read as follows:
40 22. "Administer", for the purpose of section sixty-eight hundred one
41 of this article, means the direct application of an immunizing agent to
42 adults, whether by injection, ingestion or any other means, pursuant to
43 [a.] a patient specific order or non-patient specific regimen prescribed
44 or ordered by a physician or certified nurse practitioner, who has a
45 practice site in the county in which the immunization is administered,
46 for immunizations to prevent influenza [or], pneumococcal, ACUTE HERPES
47 ZOSTER, TETANUS, DIPHTHERIA OR PERTUSSIS disease and medications
48 required for emergency treatment of anaphylaxis [or b. a patient specif-
49 ic order prescribed or ordered by a physician or certified nurse practi-
50 tioner for immunizations to prevent acute herpes zoster]. [If] FOR
51 NON-PATIENT SPECIFIC REGIMENS, [the county where the immunization is to
52 be administered has a population of seventy-five thousand or less, then]
53 the licensed physician or certified nurse practitioner [may be in an
54 adjoining county. Such administration shall be limited to immunizing
55 agents to prevent influenza or pneumococcal disease and medications
56 required for emergency treatment of anaphylaxis] IS NOT REQUIRED TO HAVE

1 A PRACTICE SITE IN THE COUNTY IN WHICH THE IMMUNIZATION IS ADMINISTERED.
2 IF THE COMMISSIONER OF HEALTH DETERMINES THAT THERE IS AN OUTBREAK OF
3 DISEASE, OR THAT THERE IS THE IMMINENT THREAT OF AN OUTBREAK OF DISEASE,
4 THEN THE COMMISSIONER OF HEALTH MAY ISSUE A NON-PATIENT SPECIFIC REGIMEN
5 APPLICABLE STATEWIDE.

6 S 11. Section 8 of chapter 563 of the laws of 2008, amending the
7 education law and the public health law relating to immunizing agents to
8 be administered to adults by pharmacists, as amended by chapter 316 of
9 the laws of 2011, is amended to read as follows:

10 S 8. This act shall take effect on the ninetieth day after it shall
11 have become a law [and shall expire and be deemed repealed March 31,
12 2016].

13 S 12. Sections 5 and 6 of chapter 116 of the laws of 2012, amending
14 the education law relating to authorizing a licensed pharmacist and
15 certified nurse practitioner to administer certain immunizing agents,
16 are amended to read as follows:

17 S 5. [The commissioner of health, in consultation with the superinten-
18 dent of financial services and the commissioner of education, shall
19 prepare and submit a report to the governor and the legislature, on or
20 before October first, two thousand fourteen, regarding the rates of
21 health insurance plan coverage for immunizations to prevent acute herpes
22 zoster in New York state. This information shall include, but not be
23 limited to, the total number of people receiving immunizations to
24 prevent acute herpes zoster from health care providers as compared to
25 pharmacies in New York state; the rates of coverage from health insur-
26 ance plans, including Medicare, for people receiving immunizations to
27 prevent acute herpes zoster from health care providers as compared to
28 pharmacies in New York state; the amount of co-pays and other fees
29 required by health insurance plans, including Medicare, for people
30 receiving immunizations to prevent acute herpes zoster from health care
31 providers as compared to pharmacies in New York state; and a list of
32 health insurance plans that do not provide coverage for people receiving
33 immunizations to prevent acute herpes zoster from health care providers
34 as compared to pharmacies in New York state as well as the amount or
35 amounts that are charges to an individual receiving immunizations to
36 prevent herpes zoster without any health insurance coverage.

37 S 6.] This act shall take effect on the ninetieth day after it shall
38 have become a law [and shall expire and be deemed repealed July 1, 2015
39 provided, that:

40 (a) the amendments to subdivision 7 of section 6527 of the education
41 law made by section one of this act shall not affect the repeal of such
42 subdivision and shall be deemed to be repealed therewith;

43 (b) the amendments to subdivision 7 of section 6909 of the education
44 law, made by section two of this act shall not affect the repeal of such
45 subdivision and shall be deemed to be repealed therewith;

46 (c) the amendments to subdivision 22 of section 6802 of the education
47 law made by section three of this act shall not affect the repeal of
48 such subdivision and shall be deemed to be repealed therewith; and

49 (d) the amendments to section 6801 of the education law made by
50 section four of this act shall not affect the expiration of such section
51 and shall be deemed to expire therewith].

52 S 13. This act shall take effect immediately.