STATE OF NEW YORK

3040

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. McDONALD, BLANKENBUSH, TAGUE, WALCZYK, BRABENEC -- Multi-Sponsored by -- M. of A. SAYEGH -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to the definition of the practice of pharmacy

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 22 of section 6802 of the education law, as amended by section 2 of part DD of chapter 57 of the laws of 2018, is amended to read as follows:

22. "Administer", for the purpose of section sixty-eight hundred one of this article, means:

a. **(1)** the direct application of an immunizing agent to adults, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, who has a practice site in the county or adjoining county in which the immunization is administered, for immunizations to prevent influenza, pneumococcal, acute herpes zoster, meningococcal, tetanus, diphtheria**, COVID-19,** or pertussis disease and medications required for emergency treatment of anaphylaxis. If the commissioner of health determines that there is an outbreak of disease, or that there is the imminent threat of an outbreak of disease, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

[~~b.~~] **(2)** the direct application of an immunizing agent to children between the ages of two and eighteen years of age, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, who has a practice site in the county or adjoining county in which the immunization is administered, for immunization to prevent influenza and medications required for emer-

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

LBD03519-01-1

gency treatment of anaphylaxis resulting from such immunization. If the commissioner of health determines that there is an outbreak of influenza, or that there is the imminent threat of an outbreak of influenza, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

b. The injection of medications for the treatment of mental health and substance use disorder, as prescribed or ordered by a licensed prescriber in this state and in accordance with regulations promulgated by the commissioner and the department of health in consultation with the board of pharmacy, and any other state agencies as necessary, providing that:

(1) Such administration is conducted pursuant to a valid prescription or order that authorizes a pharmacist to administer medications for the treatment of mental health and substance use disorder and the pharmacist notifies the licensed prescriber that the administration is complete.

(2) Such prescription may be subject to reassessment at appropriate intervals, as determined by the licensed prescriber.

(3) Such activity is conducted in accordance with regulations promulgated or adopted by the commissioner and the department of health, in consultation with the board of pharmacy, and any other state agencies, as necessary, which shall include requirements for the following:

(i) Training accredited by the accreditation council for pharmacy education, that may include educational experiences obtained through pharmacy school curricula, or a similar health authority or professional body appropriate for the medications being administered and their respective patient populations. Such training must be satisfactory to the commissioner and the department of health, in consultation with the board of pharmacy and any other state agencies, as necessary, which shall include, but not be limited to learning modules on techniques for administration by injections, indications, precautions, and contraindications in the use of agent or agents; record keeping and information; and handling emergencies, including anaphylaxis, needle-sticks and cardiopulmonary resuscitation.

(ii) Maintaining continued competency regarding the populations served and medications administered.

(iii) Pre-administration patient consent and education regarding common side effects, drug interactions, injection site reactions and other information routinely provided to patients upon dispensing.

(iv) When administering an injection in a pharmacy, the pharmacist shall provide an area for the injection that provides for the patient's privacy.

(v) Record keeping and reporting of such administration by electronic transmission or facsimile to the patient's licensed prescriber, and, to the extent practicable, make himself or herself available to discuss the outcome of such injection, including any adverse reactions, with the licensed prescriber.

§ 2. Subdivision 22 of section 6802 of the education law, as amended by chapter 110 of the laws of 2020, is amended to read as follows:

22. "Administer", for the purpose of section sixty-eight hundred one of this article, means:

a. **(1)** the direct application of an immunizing agent to adults, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, who has a practice site in the county or adjoining county in which the immunization is administered, for immunizations to prevent influenza, pneumococcal, acute herpes zoster, meningococcal, tetanus, diphtheria, COVID-19, or

pertussis disease and medications required for emergency treatment of anaphylaxis. If the commissioner of health determines that there is an outbreak of disease, or that there is the imminent threat of an outbreak of disease, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

[~~b.~~] (2) the direct application of an immunizing agent to children between the ages of two and eighteen years of age, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, who has a practice site in the county or adjoining county in which the immunization is administered, for immunization to prevent influenza and medications required for emergency treatment of anaphylaxis resulting from such immunization. If the commissioner of health determines that there is an outbreak of influenza, or that there is the imminent threat of an outbreak of influenza, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

b. The injection of medications for the treatment of mental health and substance use disorder, as prescribed or ordered by a licensed prescriber in this state and in accordance with regulations promulgated by the commissioner and the department of health, in consultation with the board of pharmacy, and any other state agencies, as necessary, providing that:

(1) Such administration is conducted pursuant to a valid prescription or order that authorizes a pharmacist to administer medications for the treatment of mental health and substance use disorder and the pharmacist notifies the licensed prescriber that the administration is complete.

(2) Such prescription may be subject to reassessment at appropriate intervals, as determined by the licensed prescriber.

(3) Such activity is conducted in accordance with regulations promulgated or adopted by the commissioner and the department of health, in consultation with the board of pharmacy, and any other state agencies, as necessary, which shall include requirements for the following:

(i) Training accredited by the accreditation council for pharmacy education, that may include educational experiences obtained through pharmacy school curricula, or a similar health authority or professional body appropriate for the medications being administered and their respective patient populations. Such training must be satisfactory to the commissioner and the department of health, in consultation with the board of pharmacy and any other state agencies, as necessary, which shall include, but not be limited to learning modules on techniques for administration by injections, indications, precautions, and contraindications in the use of agent or agents; record keeping and information; and handling emergencies, including anaphylaxis, needle-sticks and cardiopulmonary resuscitation.

(ii) Maintaining continued competency regarding the populations served and medications administered.

(iii) Pre-administration patient consent and education regarding common side effects, drug interactions, injection site reactions and other information routinely provided to patients upon dispensing.

(iv) When administering an injection in a pharmacy, the pharmacist shall provide an area for the injection that provides for the patient's privacy.

(v) Record keeping and reporting of such administration by electronic transmission or facsimile to the patient's licensed prescriber, and, to the extent practicable, make himself or herself available to discuss the

outcome of such injection, including any adverse reactions, with the licensed prescriber.

§ 3. Subdivision 22 of section 6802 of the education law, as amended by section 2 of part DD of chapter 57 of the laws of 2018, is amended to read as follows:

22. "Administer", for the purpose of section sixty-eight hundred one of this article, means:

a. (1) the direct application of an immunizing agent to adults, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, who has a practice site in the county or adjoining county in which the immunization is administered, for immunizations to prevent influenza, pneumococcal, acute herpes zoster, meningococcal, tetanus, diphtheria, COVID-19, or pertussis disease and medications required for emergency treatment of anaphylaxis. If the commissioner of health determines that there is an outbreak of disease, or that there is the imminent threat of an outbreak of disease, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

[~~b.~~] (2) the direct application of an immunizing agent to children between the ages of two and eighteen years of age, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, who has a practice site in the county or adjoining county in which the immunization is administered, for immunization to prevent influenza and medications required for emergency treatment of anaphylaxis resulting from such immunization. If the commissioner of health determines that there is an outbreak of influenza, or that there is the imminent threat of an outbreak of influenza, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

b. The injection of medications for the treatment of mental health and substance use disorders, as prescribed or ordered by a licensed prescriber in this state and in accordance with regulations promulgated by the commissioner and the department of health, in consultation with the board of pharmacy, and any other state agencies, as necessary, providing that:

(1) Such administration is conducted pursuant to a valid prescription or order that authorizes a pharmacist to administer medications for the treatment of mental health and substance use disorder and the pharmacist notifies the licensed prescriber that the administration is complete.

(2) Such prescription may be subject to reassessment at appropriate intervals, as determined by the licensed prescriber.

(3) Such activity is conducted in accordance with regulations promulgated or adopted by the commissioner and the department of health, in consultation with the board of pharmacy, and any other state agencies, as necessary, which shall include requirements for the following:

(i) Training accredited by the accreditation council for pharmacy education, that may include educational experiences obtained through pharmacy school curricula, or a similar health authority or professional body appropriate for the medications being administered and their respective patient populations. Such training must be satisfactory to the commissioner and the department of health, in consultation with the board of pharmacy and any other state agencies, as necessary, which shall include, but not be limited to learning modules on techniques for administration by injections, indications, precautions, and contraindi-

cations in the use of agent or agents; record keeping and information; and handling emergencies, including anaphylaxis, needle-sticks and cardiopulmonary resuscitation.

(ii) Maintaining continued competency regarding the populations served and medications administered.

(iii) Pre-administration patient consent and education regarding common side effects, drug interactions, injection site reactions and other information routinely provided to patients upon dispensing.

(iv) When administering an injection in a pharmacy, the pharmacist shall provide an area for the injection that provides for the patient's privacy.

(v) Record keeping and reporting of such administration by electronic transmission or facsimile to the patient's licensed prescriber, and, to the extent practicable, make himself or herself available to discuss the outcome of such injection, including any adverse reactions, with the licensed prescriber.

§ 4. Section 6801 of the education law is amended by adding a new subdivision 6 to read as follows:

6. A licensed pharmacist may administer injectable medications for the treatment of mental health and substance use disorder, as prescribed or ordered by a licensed prescriber in this state and in accordance with regulations promulgated by the commissioner in consultation with the board of pharmacy, and any other state agencies, as necessary.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that:

a. the amendments to subdivision 22 of section 6802 of the education law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 4 of chapter 110 of the laws of 2020, as amended, when upon such date the provisions of section two of this act shall take effect; provided, however, if the provisions of section two of this act shall not have taken effect prior to the repeal of such subdivision pursuant to section 8 of chapter 563 of the laws of 2008, as amended, such amendments shall not affect the repeal of such subdivision and shall be deemed to repeal therewith;

b. provided, further, the amendments to subdivision 22 of section 6802 of the education law made by section two of this act shall take effect on the same date and in the same manner as section 2 of chapter 110 of the laws of 2020, takes effect; provided, however, if section 2 of chapter 110 of the laws of 2020 takes effect prior to the effective date of this act, section two of this section shall not take effect until the one hundred eightieth day after it shall have become a law; provided that such amendments made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 4 of chapter 110 of the laws of 2020, as amended, when upon such date the provisions of section three of this act shall take effect;

c. provided, further that the amendments to subdivision 22 of section 6802 of the education law made by section three of this act shall not affect the repeal of such subdivision and shall be deemed to repeal therewith; and

d. provided, further, the amendments to section 6801 of the education law made by section four of this act shall not affect the expiration of such section and shall be deemed repealed therewith. 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 by the commissioner of education on or before such date.