

# STATE OF NEW YORK

4870--A

2021-2022 Regular Sessions

## IN SENATE

February 17, 2021

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

18 ~~[b-]~~ (2) the direct application of an immunizing agent to children  
19 between the ages of two and eighteen years of age, whether by injection,  
20 ingestion, inhalation or any other means, pursuant to a patient specific  
21 order or non-patient specific regimen prescribed or ordered by a physi-  
22 cian or certified nurse practitioner, who has a practice site in the  
23 county or adjoining county in which the immunization is administered,  
24 for immunization to prevent influenza and medications required for emer-  
25 gency treatment of anaphylaxis resulting from such immunization. If the  
26 commissioner of health determines that there is an outbreak of influen-

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

LBD03519-03-1

1 za, or that there is the imminent threat of an outbreak of influenza,  
2 then the commissioner of health may issue a non-patient specific regimen  
3 applicable statewide.

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

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

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

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

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

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

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

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

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

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

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

48 a. (1) the direct application of an immunizing agent to adults, wheth-  
49 er by injection, ingestion, inhalation or any other means, pursuant to a  
50 patient specific order or non-patient specific regimen prescribed or  
51 ordered by a physician or certified nurse practitioner, who has a prac-  
52 tice site in the county or adjoining county in which the immunization is  
53 administered, for immunizations to prevent influenza, pneumococcal,  
54 acute herpes zoster, meningococcal, tetanus, diphtheria, COVID-19, or  
55 pertussis disease and medications required for emergency treatment of  
56 anaphylaxis. If the commissioner of health determines that there is an

1 outbreak of disease, or that there is the imminent threat of an outbreak  
2 of disease, then the commissioner of health may issue a non-patient  
3 specific regimen applicable statewide.

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

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

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

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

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

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

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

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

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

52 (v) Record keeping and reporting of such administration by electronic  
53 transmission or facsimile to the patient's licensed prescriber, and, to  
54 the extent practicable, make himself or herself available to discuss the  
55 outcome of such injection, including any adverse reactions, with the  
56 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 contraindications in the use of agent or agents; record keeping and information;

1 and handling emergencies, including anaphylaxis, needle-sticks and  
2 cardiopulmonary resuscitation.

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

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

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

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

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

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

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

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

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

45 c. provided, further that the amendments to subdivision 22 of section  
46 6802 of the education law made by section three of this act shall not  
47 affect the repeal of such subdivision and shall be deemed to repeal  
48 therewith; and

49 d. provided, further, the amendments to section 6801 of the education  
50 law made by section four of this act shall not affect the expiration of  
51 such section and shall be deemed repealed therewith. Effective imme-  
52 diately, the addition, amendment and/or repeal of any rule or regulation  
53 necessary for the implementation of this act on its effective date are  
54 authorized to be made and completed by the commissioner of education on  
55 or before such date.