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I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. PAULIN, GOTTFRIED, ENGLEBRIGHT, GALEF, GLICK, HOYT, ORTIZ, ROSENTHAL, SPANO, BOYLAND -- Multi-Sponsored by -- M. of A. AUBRY, BING, BRENNAN, CAHILL, CLARK, COOK, CROUCH, CYMBROWITZ, DINOWITZ, FARRELL, GUNTHER, HEASTIE, HEVESI, HOOPER, JACOBS, JAFFEE, KELLNER, LATIMER, LAVINE, LIFTON, LUPARDO, MAYERSOHN, MILLMAN, MORELLE, PERRY, PHEFFER, PRETLOW, J. RIVERA, THIELE, WEISENBERG, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the education law, the insurance law and the public health law, in relation to providing for dispensing emergency contraception under certain conditions

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

Section 1. Short title. This act shall be known and may be cited as the "unintended pregnancy prevention act".

S 2. Legislative findings. The United States Food and Drug Administration (FDA) has declared emergency contraceptive pills to be safe and effective in preventing pregnancy when used within 72 hours after unprotected intercourse. The American College of Obstetricians and Gynecologists and the American College of Nurse-Midwives state that emergency contraception (EC) is so safe, and using it quickly is so important, that it should be available over the counter, without a prescription. They also emphasize the need for unimpeded access to EC for all women of reproductive age. However, although there are no medical reasons to limit provision of EC, the FDA only approved non-prescription access for women 18 years and older. Additionally, the FDA imposed requirements for proving the patient's identity with government-issued identification documents. The need remains, however, to provide access to women who have difficulty obtaining the required identification documents and to women under the age of 17 years. Minors in New York State have long been legally entitled to full access, without parental consent, to all repro-

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

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ductive health care and services, including EC. Providing direct access to EC for younger women will also make it more likely that they will receive appropriate and timely professional attention, support and assistance.

The legislature deems it necessary to create a structure for simplifying access to EC for these women, while respecting and preserving the prescribing scopes of practice of physicians, nurse practitioners, and midwives, the treating and case-finding scope of practice of registered professional nurses, and the dispensing scope of practice of pharmacists. This act does not alter the scopes of such professions, nor does this legislation interfere with non-prescription access to EC where it is otherwise lawful.

The legislature also finds that this legislation is necessary to ensure that women do not lose insurance coverage for EC solely because it has become available without a prescription. Losing coverage would be a major obstacle to access, which would undermine the important health objectives of the FDA and the legislature.

S 3. Subdivision 6 of section 6527 of the education law, as added by chapter 573 of the laws of 1999, paragraph (c) as added by chapter 221 of the laws of 2002 and paragraph (d) as added by chapter 429 of the laws of 2005, is amended to read as follows:

6. A licensed physician may prescribe and order a non-patient specific regimen [to a registered professional nurse], pursuant to regulations promulgated by the commissioner, and consistent with the public health law, [for] TO:

(a) A REGISTERED PROFESSIONAL NURSE FOR:

(I) administering immunizations[.];

[(b)] (II) the emergency treatment of anaphylaxis[.];

[(c)] (III) administering purified protein derivative (PPD) tests[.];

[(d)] (IV) administering tests to determine the presence of the human immunodeficiency virus[.];

(V) EMERGENCY CONTRACEPTION, TO BE ADMINISTERED TO OR DISPENSED TO BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THIS TITLE; OR

(B) A LICENSED PHARMACIST, FOR DISPENSING EMERGENCY CONTRACEPTION, TO BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THIS TITLE.

S 4. Subdivision 3 of section 6807 of the education law, as added by chapter 573 of the laws of 1999, is amended and a new subdivision 4 is added to read as follows:

3. A pharmacist may dispense drugs and devices to a registered professional nurse, and a registered professional nurse may possess and administer, drugs and devices, pursuant to a non-patient specific regimen prescribed or ordered by a licensed physician, LICENSED MIDWIFE, or certified nurse practitioner, pursuant to regulations promulgated by the commissioner and the public health law.

4. A LICENSED PHARMACIST MAY DISPENSE A NON-PATIENT SPECIFIC REGIMEN OF EMERGENCY CONTRACEPTION, TO BE SELF-ADMINISTERED BY THE PATIENT, PRESCRIBED OR ORDERED BY A LICENSED PHYSICIAN, CERTIFIED NURSE PRACTITIONER, OR LICENSED MIDWIFE, UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THIS ARTICLE.

S 5. The education law is amended by adding a new section 6829 to read as follows:

S 6829. EMERGENCY CONTRACEPTION; NON-PATIENT SPECIFIC PRESCRIPTION OR ORDER. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT REQUIRES OTHERWISE:

(A) "EMERGENCY CONTRACEPTION" MEANS ONE OR MORE PRESCRIPTION OR NON-PRESCRIPTION DRUGS, USED SEPARATELY OR IN COMBINATION, IN A DOSAGE AND MANNER FOR PREVENTING PREGNANCY WHEN USED AFTER INTERCOURSE, FOUND SAFE AND EFFECTIVE FOR THAT USE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, AND DISPENSED OR ADMINISTERED FOR THAT PURPOSE.

(B) "PRESCRIBER" MEANS A LICENSED PHYSICIAN, CERTIFIED NURSE PRACTITIONER OR LICENSED MIDWIFE.

2. THIS SECTION APPLIES TO THE ADMINISTERING OR DISPENSING OF EMERGENCY CONTRACEPTION BY A REGISTERED PROFESSIONAL NURSE OR LICENSED PHARMACIST PURSUANT TO A PRESCRIPTION OR ORDER FOR A NON-PATIENT SPECIFIC REGIMEN MADE BY A PRESCRIBER UNDER SECTION SIXTY-FIVE HUNDRED TWENTY-SEVEN, SIXTY-NINE HUNDRED NINE OR SIXTY-NINE HUNDRED FIFTY-ONE OF THIS TITLE. THIS SECTION DOES NOT APPLY TO ADMINISTERING OR DISPENSING EMERGENCY CONTRACEPTION WHEN LAWFULLY DONE WITHOUT SUCH A PRESCRIPTION OR ORDER.

3. THE ADMINISTERING OR DISPENSING OF EMERGENCY CONTRACEPTION BY A REGISTERED PROFESSIONAL NURSE OR LICENSED PHARMACIST SHALL BE DONE IN ACCORDANCE WITH PROFESSIONAL STANDARDS OF PRACTICE AND IN ACCORDANCE WITH WRITTEN PROCEDURES AND PROTOCOLS AGREED TO BY THE REGISTERED PROFESSIONAL NURSE OR LICENSED PHARMACIST AND THE PRESCRIBER OR A HOSPITAL (LICENSED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW) THAT PROVIDES GYNECOLOGICAL OR FAMILY PLANNING SERVICES.

4. (A) WHEN EMERGENCY CONTRACEPTION IS ADMINISTERED OR DISPENSED, THE REGISTERED PROFESSIONAL NURSE OR LICENSED PHARMACIST SHALL PROVIDE TO THE PATIENT WRITTEN MATERIAL THAT INCLUDES: (I) THE CLINICAL CONSIDERATIONS AND RECOMMENDATIONS FOR USE OF THE DRUG; (II) THE APPROPRIATE METHOD FOR USING THE DRUG; (III) INFORMATION ON THE IMPORTANCE OF FOLLOW-UP HEALTH CARE; (IV) INFORMATION ON THE HEALTH RISKS AND OTHER DANGERS OF UNPROTECTED INTERCOURSE; AND (V) REFERRAL INFORMATION RELATING TO HEALTH CARE AND SERVICES RELATING TO SEXUAL ABUSE AND DOMESTIC VIOLENCE.

(B) SUCH WRITTEN MATERIAL SHALL BE DEVELOPED OR APPROVED BY THE COMMISSIONER IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS.

S 6. Subdivision 4 of section 6909 of the education law, as added by chapter 573 of the laws of 1999, paragraph (a) as amended and paragraph (c) as added by chapter 221 of the laws of 2002 and paragraph (d) as added by chapter 429 of the laws of 2005, is amended to read as follows:

4. A certified nurse practitioner may prescribe and order a non-patient specific regimen [to a registered professional nurse], pursuant to regulations promulgated by the commissioner, consistent with subdivision three of section [six thousand nine] SIXTY-NINE hundred two of this article, and consistent with the public health law, [for] TO:

(a) A REGISTERED PROFESSIONAL NURSE FOR:

(I) administering immunizations[.];

[(b)] (II) the emergency treatment of anaphylaxis[.];

[(c)] (III) administering purified protein derivative (PPD) tests[.];

[(d)] (IV) administering tests to determine the presence of the human immunodeficiency virus[.];

(V) EMERGENCY CONTRACEPTION, TO BE ADMINISTERED TO OR DISPENSED TO BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THIS TITLE; OR

(B) A LICENSED PHARMACIST, FOR DISPENSING EMERGENCY CONTRACEPTION, TO BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THIS TITLE.

S 7. Subdivision 5 of section 6909 of the education law, as added by chapter 573 of the laws of 1999, is amended to read as follows:

5. A registered professional nurse may execute a non-patient specific regimen prescribed or ordered by a licensed physician, LICENSED MIDWIFE, or certified nurse practitioner, pursuant to regulations promulgated by the commissioner.

S 8. Section 6951 of the education law is amended by adding a new subdivision 4 to read as follows:

4. A LICENSED MIDWIFE MAY PRESCRIBE AND ORDER A NON-PATIENT SPECIFIC REGIMEN PURSUANT TO REGULATIONS OF THE COMMISSIONER, CONSISTENT WITH THIS SECTION AND THE PUBLIC HEALTH LAW, TO:

(A) A REGISTERED PROFESSIONAL NURSE FOR EMERGENCY CONTRACEPTION, TO BE ADMINISTERED TO OR DISPENSED TO BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THIS TITLE; OR

(B) A LICENSED PHARMACIST, FOR DISPENSING EMERGENCY CONTRACEPTION, TO BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THIS TITLE.

S 9. Section 3216 of the insurance law is amended by adding a new subsection (m) to read as follows:

(M) ANY POLICY UNDER THIS ARTICLE THAT COVERS CONTRACEPTION WHEN PROVIDED PURSUANT TO A PRESCRIPTION SHALL COVER EMERGENCY CONTRACEPTION AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THE EDUCATION LAW, WHEN PROVIDED PURSUANT TO AN ORDINARY PRESCRIPTION OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN THROUGH A PRESCRIPTION OR ORDER.

S 10. Section 3221 of the insurance law is amended by adding a new subsection (s) to read as follows:

(S) ANY POLICY UNDER THIS ARTICLE THAT COVERS CONTRACEPTION WHEN PROVIDED PURSUANT TO A PRESCRIPTION, SHALL COVER EMERGENCY CONTRACEPTION AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THE EDUCATION LAW, WHEN PROVIDED PURSUANT TO AN ORDINARY PRESCRIPTION OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN THROUGH A PRESCRIPTION OR ORDER.

S 11. Section 4304 of the insurance law is amended by adding a new subsection (n) to read as follows:

(N) ANY POLICY UNDER THIS ARTICLE THAT COVERS CONTRACEPTION WHEN PROVIDED PURSUANT TO A PRESCRIPTION, SHALL COVER EMERGENCY CONTRACEPTION AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THE EDUCATION LAW, WHEN PROVIDED PURSUANT TO AN ORDINARY PRESCRIPTION OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED TWENTY-NINE OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN THROUGH A PRESCRIPTION OR ORDER.

S 12. Subdivision 1 of section 207 of the public health law is amended by adding a new paragraph (i) to read as follows:

(I) EMERGENCY CONTRACEPTION, INCLUDING INFORMATION ABOUT ITS SAFETY, EFFICACY, APPROPRIATE USE AND AVAILABILITY.

S 13. This act shall take effect on the one hundred eightieth day after it shall have become a law; and sections nine, ten and eleven of this act shall apply to policies and contracts issued, renewed, modified, altered or amended on or after such effective date. The commissioner of education is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such effective date.