

123--B

2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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Introduced by M. of A. PAULIN, GOTTFRIED, GUNTHER, MARKEY, OTIS, HOOPER, SIMANOWITZ, WEPRIN, FAHY, McDONALD, BUCHWALD, STIRPE, LAVINE, SKOUFIS, BROOK-KRASNY, STECK, ORTIZ, CLARK, DUPREY, LINARES -- Multi-Sponsored by -- M. of A. CERETTO, COOK, DiPIETRO, GOODELL, HIKIND, LUPARDO, LUPINACCI, MAGEE, MOYA, PERRY, SCHIMEL, SCHIMMINGER, WALTER -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the administration of certain immunizations; 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 to amend 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 the effectiveness thereof

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

1     Section 1. Subdivision 7 of section 6527 of the education law, as  
2     amended by chapter 116 of the laws of 2012 and paragraph (c) as added by  
3     chapter 274 of the laws of 2013, is amended to read as follows:  
4     7. [(a)] A licensed physician may prescribe and order a PATIENT  
5     SPECIFIC ORDER OR non-patient specific regimen to a licensed pharmacist,  
6     pursuant to regulations promulgated by the commissioner, and consistent  
7     with the public health law, for administering immunizations to prevent  
8     influenza [or], pneumococcal, ACUTE HERPES ZOSTER, MENINGOCOCCAL, TETA-  
9     NUS, DIPHTHERIA OR PERTUSSIS disease and medications required for emer-  
10    gency treatment of anaphylaxis. Nothing in this subdivision shall

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

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1 authorize unlicensed persons to administer immunizations, vaccines or  
2 other drugs.

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

7 (c) A licensed physician may prescribe and order a non-patient specif-  
8 ic regimen to a licensed pharmacist, pursuant to regulations promulgated  
9 by the commissioner, and consistent with the public health law, for  
10 administering immunizations to prevent meningococcal disease.]

11 S 2. Subdivision 7 of section 6909 of the education law, as amended by  
12 chapter 116 of the laws of 2012 and paragraph (c) as added by chapter  
13 274 of the laws of 2013, is amended to read as follows:

14 7. [(a)] A certified nurse practitioner may prescribe and order a  
15 PATIENT SPECIFIC ORDER OR non-patient specific regimen to a licensed  
16 pharmacist, pursuant to regulations promulgated by the commissioner, and  
17 consistent with the public health law, for administering immunizations  
18 to prevent influenza [or], pneumococcal, ACUTE HERPES ZOSTER, MENINGO-  
19 COCCAL, TETANUS, DIPHTHERIA OR PERTUSSIS disease and medications  
20 required for emergency treatment of anaphylaxis. Nothing in this subdi-  
21 vision shall authorize unlicensed persons to administer immunizations,  
22 vaccines or other drugs.

23 [(b) A certified nurse practitioner may prescribe and order a patient  
24 specific regimen to a licensed pharmacist, pursuant to regulations  
25 promulgated by the commissioner, and consistent with the public health  
26 law, for administering immunizations to prevent acute herpes zoster.

27 (c) A certified nurse practitioner may prescribe and order a non-pa-  
28 tient specific regimen to a licensed pharmacist, pursuant to regulations  
29 promulgated by the commissioner, and consistent with the public health  
30 law, for administering immunizations to prevent meningococcal disease.]

31 S 3. Subdivisions 2, 4 and 5 of section 6801 of the education law,  
32 subdivisions 2 and 4 as added by chapter 563 of the laws of 2008 and  
33 subdivision 5 as added by chapter 116 of the laws of 2012, are amended  
34 to read as follows:

35 2. A licensed pharmacist may execute a non-patient specific regimen  
36 prescribed or ordered by a [licensed] physician LICENSED IN THIS STATE  
37 or [certified] nurse practitioner CERTIFIED IN THIS STATE, pursuant to  
38 rules and regulations promulgated by the commissioner. When a licensed  
39 pharmacist administers an immunizing agent, he or she shall:

40 (a) report such administration BY ELECTRONIC TRANSMISSION OR FASCIMILE  
41 to the patient's attending primary health care practitioner or practi-  
42 tioners, if any, [pursuant to rules and regulations of the commissioner]  
43 AND, TO THE EXTENT PRACTICABLE, MAKE HIMSELF OR HERSELF AVAILABLE TO  
44 DISCUSS THE OUTCOME OF SUCH IMMUNIZATION, INCLUDING ANY ADVERSE  
45 REACTIONS, WITH THE ATTENDING PRIMARY HEALTH CARE PRACTITIONER, OR TO  
46 THE STATEWIDE IMMUNIZATION REGISTRY OR THE CITYWIDE IMMUNIZATION REGIS-  
47 TRY, AS ESTABLISHED PURSUANT TO SECTION TWENTY-ONE HUNDRED SIXTY-EIGHT  
48 OF THE PUBLIC HEALTH LAW; AND

49 (b) provide information to the patient on the importance of having a  
50 primary health care practitioner, developed by the commissioner of  
51 health; and

52 (c) report such administration, absent of any individually identifi-  
53 able health information, to the department of health in a manner  
54 required by the commissioner of health.

55 (D) PRIOR TO ADMINISTERING THE IMMUNIZATION, INFORM THE PATIENT OF THE  
56 TOTAL COST OF THE IMMUNIZATION OR IMMUNIZATIONS, SUBTRACTING ANY HEALTH

1 INSURANCE SUBSIDIZATION, IF APPLICABLE. IN THE CASE THE IMMUNIZATION IS  
2 NOT COVERED, THE PHARMACIST MUST INFORM THE PATIENT OF THE POSSIBILITY  
3 THAT THE IMMUNIZATION MAY BE COVERED WHEN ADMINISTERED BY A PRIMARY CARE  
4 PHYSICIAN OR PRACTITIONER; AND

5 (E) ADMINISTER THE IMMUNIZATION OR IMMUNIZATIONS ACCORDING TO THE MOST  
6 CURRENT RECOMMENDATIONS BY THE ADVISORY COMMITTEE FOR IMMUNIZATION PRAC-  
7 TICES (ACIP), PROVIDED HOWEVER, THAT A PHARMACIST MAY ADMINISTER ANY  
8 IMMUNIZATION AUTHORIZED UNDER THIS SECTION WHEN SPECIFIED BY A PATIENT  
9 SPECIFIC ORDER.

10 4. [The commissioner of health, in consultation with the commissioner,  
11 shall prepare and submit a report to the governor and the legislature,  
12 on or before December thirty-first, two thousand eleven, reporting the  
13 results and evaluating the effectiveness and impact, if any, of imple-  
14 mentation of subdivision two of this section upon the supply of such  
15 immunizing agents for the prevention of influenza and pneumococcal  
16 disease, upon the geographical distribution of such agents, and upon the  
17 distribution of such agents among health care providers, including  
18 physicians, and pharmacies in New York state.

19 5.] When administering an immunization in a pharmacy, the licensed  
20 pharmacist shall provide an area for the immunization that provides for  
21 a patient's privacy. THE PRIVACY AREA SHOULD INCLUDE A CLEARLY VISIBLE  
22 POSTING OF THE MOST CURRENT "RECOMMENDED ADULT IMMUNIZATION SCHEDULE"  
23 PUBLISHED BY THE ADVISORY COMMITTEE FOR IMMUNIZATION PRACTICES (ACIP).

24 S 4. Subdivision 22 of section 6802 of the education law, as amended  
25 by chapter 274 of the laws of 2013, is amended to read as follows:

26 22. "Administer", for the purpose of section sixty-eight hundred one  
27 of this article, means the direct application of an immunizing agent to  
28 adults, whether by injection, ingestion or any other means, pursuant to  
29 [a.] a patient specific order or non-patient specific regimen prescribed  
30 or ordered by a physician or certified nurse practitioner, who has a  
31 practice site in the county OR ADJOINING COUNTY in which the immuniza-  
32 tion is administered, for immunizations to prevent influenza [or], pneu-  
33 mococcal, ACUTE HERPES ZOSTER, MENINGOCOCCAL, TETANUS, DIPHTHERIA OR  
34 PERTUSSIS disease and medications required for emergency treatment of  
35 anaphylaxis [or b. a patient specific order prescribed or ordered by a  
36 physician or certified nurse practitioner for immunizations to prevent  
37 acute herpes zoster or meningococcal disease or c. a patient specific  
38 order or non-patient specific regimen prescribed or ordered by a physi-  
39 cian or certified nurse practitioner for immunizations to prevent menin-  
40 gococcal disease. If the county where the immunization is to be adminis-  
41 tered has a population of seventy-five thousand or less, then the  
42 licensed physician or certified nurse practitioner may be in an adjoin-  
43 ing county. Such administration shall be limited to immunizing agents to  
44 prevent influenza or pneumococcal disease and medications required for  
45 emergency treatment of anaphylaxis]. IF THE COMMISSIONER OF HEALTH  
46 DETERMINES THAT THERE IS AN OUTBREAK OF DISEASE, OR THAT THERE IS THE  
47 IMMINENT THREAT OF AN OUTBREAK OF DISEASE, THEN THE COMMISSIONER OF  
48 HEALTH MAY ISSUE A NON-PATIENT SPECIFIC REGIMEN APPLICABLE STATEWIDE.

49 S 5. Section 8 of chapter 563 of the laws of 2008, amending the educa-  
50 tion law and the public health law relating to immunizing agents to be  
51 administered to adults by pharmacists, as amended by chapter 316 of the  
52 laws of 2011, is amended to read as follows:

53 S 8. This act shall take effect on the ninetieth day after it shall  
54 have become a law and shall expire and be deemed repealed [March 31,  
55 2016] JULY 1, 2019.

1 S 6. Sections 5 and 6 of chapter 116 of the laws of 2012, amending the  
2 education law relating to authorizing a licensed pharmacist and certi-  
3 fied nurse practitioner to administer certain immunizing agents, are  
4 amended to read as follows:

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

25 S 6.] This act shall take effect on the ninetieth day after it shall  
26 have become a law and shall expire and be deemed repealed July 1, [2015]  
27 2019 provided, that:

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

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

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

37 (d) the amendments to section 6801 of the education law made by  
38 section four of this act shall not affect the expiration of such section  
39 and shall be deemed to expire therewith.

40 S 7. The commissioner of health, in consultation with the superinten-  
41 dent of financial services and the commissioner of education, shall  
42 prepare and submit a report to the governor and to the temporary presi-  
43 dent of the senate and the speaker of the assembly, on or before October  
44 first, two thousand nineteen, regarding rates of health insurance plan  
45 coverage for immunizations administered at pharmacies in New York state  
46 and any other subjects deemed relevant and necessary. This information  
47 shall include, but not be limited to, the total number of people receiv-  
48 ing immunizations at pharmacies in New York state; the number of indi-  
49 viduals reporting being under the care of a primary care physician or  
50 practitioner when receiving an immunization at a pharmacy; the rates of  
51 coverage from health insurance plans, including medicare, for people  
52 receiving immunizations from pharmacies in New York state; and the  
53 amount or amounts that are charges to an individual receiving immuniza-  
54 tions without any health insurance coverage. The commissioner of  
55 health, superintendent of financial services and the commissioner of

1 education may require pharmacists, private insurers, public insurers and  
2 others to submit information necessary to the completion of the report.

3 S 8. This act shall take effect immediately; provided, however, that:

4 (a) the amendments to subdivision 7 of section 6527 of the education  
5 law made by section one of this act shall not affect the expiration of  
6 such subdivision and shall be deemed to be expired therewith;

7 (b) the amendments to subdivision 7 of section 6909 of the education  
8 law, made by section two of this act shall not affect the expiration of  
9 such subdivision and shall be deemed to be expired therewith;

10 (c) the amendments to subdivisions 2 and 4 of section 6801 of the  
11 education law, made by section three of this act shall not affect the  
12 expiration of such section and shall be deemed to expire therewith;

13 (d) the amendments to subdivision 5 of section 6801 of the education  
14 law, made by section three of this act shall not affect the repeal of  
15 such subdivision and shall be deemed repealed therewith;

16 (e) the amendments to subdivision 22 of section 6802 of the education  
17 law, made by section four of this act shall not affect the expiration of  
18 such subdivision and shall be deemed to be expired therewith; and

19 (f) the amendments to paragraph (a) of subdivision 2 of section 6801  
20 of the education law made by section three of this act shall take effect  
21 on the one hundred eightieth day after it shall have become a law,  
22 provided, however, that effective immediately, any rules and regulations  
23 necessary to implement the provisions of this act on its effective date  
24 are authorized to be added, amended and/or repealed on or before such  
25 effective date.