

6954

2015-2016 Regular Sessions

I N A S S E M B L Y

April 15, 2015

Introduced by M. of A. PAULIN, GOTTFRIED, ENGLEBRIGHT, GALEF, GLICK, ROSENTHAL, SKOUFIS, LAVINE, TITONE, FAHY -- Multi-Sponsored by -- M. of A. AUBRY, BRENNAN, CAHILL, CLARK, COOK, CROUCH, CYMBROWITZ, DINOWITZ, FARRELL, GUNTHER, HEVESI, HOOPER, JAFFEE, LIFTON, LUPARDO, MORELLE, PERRY, PRETLOW, THIELE, 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:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "unintended pregnancy prevention act".
3 S 2. Legislative findings. The United States Food and Drug Adminis-
4 tration (FDA) has declared emergency contraceptive drugs to be safe and
5 effective. There is neither medical nor public health research that
6 validates an age restriction on access to emergency contraception (EC).
7 Furthermore, no specific medical conditions preclude a woman from using
8 EC. The only contraindication to EC use is pregnancy itself, not because
9 it represents a danger to the woman or to the embryo but because it
10 would be inefficient in preventing the pregnancy. Pregnancy prevention,
11 not abortion, is caused by the use of emergency contraceptive drugs.
12 The legislature deems it necessary to guarantee immediate access to EC
13 to all, especially young women. Nearly thirty percent of United States
14 teenage girls become pregnant before reaching twenty years of age. Teens
15 are more likely than adults to experience contraceptive failure, which
16 may lead to unintended pregnancies and consequently dangerous medical
17 issues for both mother and baby.
18 The legislature deems it necessary to create a structure for simplify-
19 ing access to EC for these women, while respecting and preserving the
20 prescribing scope of practice for physicians, nurse practitioners, and

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

LBD10324-01-5

1 midwives; the treating and case-finding scope of practice of registered
2 professional nurses; and the dispensing scope of practice of pharma-
3 cists. This act does not alter the scope of such professions, nor does
4 this legislation interfere with non-prescription access to EC where it
5 is otherwise lawful.

6 S 3. Subdivision 6 of section 6527 of the education law, as added by
7 chapter 573 of the laws of 1999, paragraph (c) as added by chapter 221
8 of the laws of 2002, paragraph (d) as added by chapter 429 of the laws
9 of 2005 and paragraph (e) as added by chapter 352 of the laws of 2014,
10 is amended to read as follows:

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

15 (a) A REGISTERED PROFESSIONAL NURSE FOR:

16 (I) administering immunizations[.];

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

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

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

21 [(e)] (V) administering tests to determine the presence of the hepati-
22 tis C virus[.];

23 (VI) EMERGENCY CONTRACEPTION, TO BE ADMINISTERED TO OR DISPENSED TO BE
24 SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED
25 THIRTY-TWO OF THIS TITLE; OR

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

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

32 3. A pharmacist may dispense drugs and devices to a registered profes-
33 sional nurse, and a registered professional nurse may possess and admin-
34 ister, drugs and devices, pursuant to a non-patient specific regimen
35 prescribed or ordered by a licensed physician, LICENSED MIDWIFE or
36 certified nurse practitioner, pursuant to regulations promulgated by the
37 commissioner and the public health law.

38 4. A LICENSED PHARMACIST MAY DISPENSE A NON-PATIENT SPECIFIC REGIMEN
39 OF EMERGENCY CONTRACEPTION, TO BE SELF-ADMINISTERED BY THE PATIENT,
40 PRESCRIBED OR ORDERED BY A LICENSED PHYSICIAN, CERTIFIED NURSE PRACTI-
41 TIONER, OR LICENSED MIDWIFE, UNDER SECTION SIXTY-EIGHT HUNDRED
42 THIRTY-TWO OF THIS ARTICLE.

43 S 5. The education law is amended by adding a new section 6832 to read
44 as follows:

45 S 6832. EMERGENCY CONTRACEPTION; NON-PATIENT SPECIFIC PRESCRIPTION OR
46 ORDER. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
47 FOLLOWING MEANINGS, UNLESS THE CONTEXT REQUIRES OTHERWISE:

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

53 (B) "PRESCRIBER" MEANS A LICENSED PHYSICIAN, CERTIFIED NURSE PRACTI-
54 TIONER OR LICENSED MIDWIFE.

55 2. THIS SECTION APPLIES TO THE ADMINISTERING OR DISPENSING OF EMERGEN-
56 CY CONTRACEPTION BY A REGISTERED PROFESSIONAL NURSE OR LICENSED PHARMA-

1 CIST PURSUANT TO A PRESCRIPTION OR ORDER FOR A NON-PATIENT SPECIFIC
2 REGIMEN MADE BY A PRESCRIBER UNDER SECTION SIXTY-FIVE HUNDRED
3 TWENTY-SEVEN, SIXTY-NINE HUNDRED NINE OR SIXTY-NINE HUNDRED FIFTY-ONE OF
4 THIS TITLE. THIS SECTION DOES NOT APPLY TO ADMINISTERING OR DISPENSING
5 EMERGENCY CONTRACEPTION WHEN LAWFULLY DONE WITHOUT SUCH A PRESCRIPTION
6 OR ORDER.

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

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

23 (B) SUCH WRITTEN MATERIAL SHALL BE DEVELOPED OR APPROVED BY THE
24 COMMISSIONER IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND THE AMER-
25 ICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS.

26 S 6. Subdivision 4 of section 6909 of the education law, as added by
27 chapter 573 of the laws of 1999, paragraph (a) as amended and paragraph
28 (c) as added by chapter 221 of the laws of 2002, paragraph (d) as added
29 by chapter 429 of the laws of 2005 and paragraph (e) as added by chapter
30 352 of the laws of 2014, is amended to read as follows:

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

36 (a) A REGISTERED PROFESSIONAL NURSE FOR:

37 (I) administering immunizations[.];

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

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

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

42 [(e)] (V) administering tests to determine the presence of the hepati-
43 tis C virus[.];

44 (VI) EMERGENCY CONTRACEPTION, TO BE ADMINISTERED TO OR DISPENSED TO BE
45 SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED
46 THIRTY-TWO OF THIS TITLE; OR

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

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

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

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

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

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

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

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

14 (N) ANY POLICY UNDER THIS ARTICLE THAT COVERS CONTRACEPTION WHEN
15 PROVIDED PURSUANT TO A PRESCRIPTION SHALL COVER EMERGENCY CONTRACEPTION
16 AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-EIGHT
17 HUNDRED THIRTY-TWO OF THE EDUCATION LAW, WHEN PROVIDED PURSUANT TO AN
18 ORDINARY PRESCRIPTION OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED THIR-
19 TY-TWO OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN
20 THROUGH A PRESCRIPTION OR ORDER.

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

23 (T) ANY POLICY UNDER THIS ARTICLE THAT COVERS CONTRACEPTION WHEN
24 PROVIDED PURSUANT TO A PRESCRIPTION, SHALL COVER EMERGENCY CONTRACEPTION
25 AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-EIGHT
26 HUNDRED THIRTY-TWO OF THE EDUCATION LAW, WHEN PROVIDED PURSUANT TO AN
27 ORDINARY PRESCRIPTION OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED THIR-
28 TY-TWO OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN
29 THROUGH A PRESCRIPTION OR ORDER.

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

32 (N) ANY POLICY UNDER THIS ARTICLE THAT COVERS CONTRACEPTION WHEN
33 PROVIDED PURSUANT TO A PRESCRIPTION, SHALL COVER EMERGENCY CONTRACEPTION
34 AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-EIGHT
35 HUNDRED THIRTY-TWO OF THE EDUCATION LAW, WHEN PROVIDED PURSUANT TO AN
36 ORDINARY PRESCRIPTION OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED THIR-
37 TY-TWO OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN
38 THROUGH A PRESCRIPTION OR ORDER.

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

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

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