

2713--A

2015-2016 Regular Sessions

I N S E N A T E

January 28, 2015

Introduced by Sens. KRUEGER, AVELLA, HASSELL-THOMPSON, HOYLMAN, MONTGOMERY, PERKINS, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommended to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 pills to be safe and
5 effective in preventing pregnancy when used within 72 hours after unpro-
6 tected intercourse. The American College of Obstetricians and Gynecolo-
7 gists and the American College of Nurse-Midwives state that emergency
8 contraception (EC) is so safe, and using it quickly is so important,
9 that it should be available over the counter, without a prescription.
10 They also emphasize the need for unimpeded access to EC for all women of
11 reproductive age. However, although there are no medical reasons to
12 limit provision of EC, the FDA only approved non-prescription access for
13 women 18 years and older. Additionally, the FDA imposed requirements for
14 proving the patient's identity with government-issued identification
15 documents. The need remains, however, to provide access to women who
16 have difficulty obtaining the required identification documents and to
17 women under the age of 17 years. Minors in New York state have long been
18 legally entitled to full access, without parental consent, to all repro-
19 ductive health care and services, including EC. Providing direct access
20 to EC for younger women will also make it more likely that they will

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

LBD03356-03-6

1 receive appropriate and timely professional attention, support and
2 assistance.

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

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

16 S 3. Subdivision 6 of section 6527 of the education law, as added by
17 chapter 573 of the laws of 1999, paragraph (c) as amended by chapter 464
18 of the laws of 2015, paragraph (d) as added by chapter 429 of the laws
19 of 2005, paragraph (e) as added by chapter 352 of the laws of 2014 and
20 paragraph (f) as added by section 6 of part V of chapter 57 of the laws
21 of 2015, is amended to read as follows:

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

26 (a) A REGISTERED PROFESSIONAL NURSE FOR:

27 (I) administering immunizations[.];

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

29 [(c)] (III) administering purified protein derivative (PPD) tests or
30 other tests to detect or screen for tuberculosis infections[.];

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

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

35 [(f)] (VI) the urgent or emergency treatment of opioid related over-
36 dose or suspected opioid related overdose[.];

37 (VII) EMERGENCY CONTRACEPTION, TO BE ADMINISTERED TO OR DISPENSED TO
38 BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED
39 THIRTY-ONE OF THIS TITLE; OR

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

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

46 3. A pharmacist may dispense drugs and devices to a registered profes-
47 sional nurse, and a registered professional nurse may possess and admin-
48 ister, drugs and devices, pursuant to a non-patient specific regimen
49 prescribed or ordered by a licensed physician, LICENSED MIDWIFE, or
50 certified nurse practitioner, pursuant to regulations promulgated by the
51 commissioner and the public health law.

52 4. A LICENSED PHARMACIST MAY DISPENSE A NON-PATIENT SPECIFIC REGIMEN
53 OF EMERGENCY CONTRACEPTION, TO BE SELF-ADMINISTERED BY THE PATIENT,
54 PRESCRIBED OR ORDERED BY A LICENSED PHYSICIAN, CERTIFIED NURSE PRACTI-
55 TIONER, OR LICENSED MIDWIFE, UNDER SECTION SIXTY-EIGHT HUNDRED
56 THIRTY-ONE OF THIS ARTICLE.

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

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

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

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

13 2. THIS SECTION APPLIES TO THE ADMINISTERING OR DISPENSING OF EMERGEN-
14 CY CONTRACEPTION BY A REGISTERED PROFESSIONAL NURSE OR LICENSED PHARMA-
15 CIST PURSUANT TO A PRESCRIPTION OR ORDER FOR A NON-PATIENT SPECIFIC
16 REGIMEN MADE BY A PRESCRIBER UNDER SECTION SIXTY-FIVE HUNDRED
17 TWENTY-SEVEN, SIXTY-NINE HUNDRED NINE OR SIXTY-NINE HUNDRED FIFTY-ONE OF
18 THIS TITLE. THIS SECTION DOES NOT APPLY TO ADMINISTERING OR DISPENSING
19 EMERGENCY CONTRACEPTION WHEN LAWFULLY DONE WITHOUT SUCH A PRESCRIPTION
20 OR ORDER.

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

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

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

40 S 6. Subdivision 4 of section 6909 of the education law, as added by
41 chapter 573 of the laws of 1999, paragraph (a) as amended by chapter 221
42 of the laws of 2002, paragraph (c) as amended by chapter 464 of the laws
43 of 2015, paragraph (d) as added by chapter 429 of the laws of 2005,
44 paragraph (e) as added by chapter 352 of the laws of 2014 and paragraph
45 (f) as added by section 5 of part V of chapter 57 of the laws of 2015,
46 is amended to read as follows:

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

52 (a) A REGISTERED PROFESSIONAL NURSE FOR:

53 (I) administering immunizations[.];

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

55 [(c)] (III) administering purified protein derivative (PPD) tests or
56 other tests to detect or screen for tuberculosis infections[.];

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

3 [(e)] (V) administering tests to determine the presence of the hepatis
4 C virus[.];

5 [(f)] (VI) the urgent or emergency treatment of opioid related over-
6 dose or suspected opioid related overdose[.];

7 (VII) EMERGENCY CONTRACEPTION, TO BE ADMINISTERED TO OR DISPENSED TO
8 BE SELF-ADMINISTERED BY THE PATIENT, UNDER SECTION SIXTY-EIGHT HUNDRED
9 THIRTY-ONE OF THIS TITLE; OR

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

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

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

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

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

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

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

30 S 9. Section 3216 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-ONE OF THE EDUCATION LAW, WHEN PROVIDED PURSUANT TO AN
36 ORDINARY PRESCRIPTION OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED THIR-
37 TY-ONE OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN
38 THROUGH A PRESCRIPTION OR ORDER.

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

41 (T) ANY POLICY UNDER THIS ARTICLE THAT COVERS CONTRACEPTION WHEN
42 PROVIDED PURSUANT TO A PRESCRIPTION, SHALL COVER EMERGENCY CONTRACEPTION
43 AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-EIGHT
44 HUNDRED THIRTY-ONE OF THE EDUCATION LAW, WHEN PROVIDED PURSUANT TO AN
45 ORDINARY PRESCRIPTION OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED THIR-
46 TY-ONE OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN
47 THROUGH A PRESCRIPTION OR ORDER.

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

50 (N) ANY POLICY UNDER THIS ARTICLE THAT COVERS CONTRACEPTION WHEN
51 PROVIDED PURSUANT TO A PRESCRIPTION, SHALL COVER EMERGENCY CONTRACEPTION
52 AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-EIGHT
53 HUNDRED THIRTY-ONE OF THE EDUCATION LAW, WHEN PROVIDED PURSUANT TO AN
54 ORDINARY PRESCRIPTION OR ORDER UNDER SECTION SIXTY-EIGHT HUNDRED THIR-
55 TY-ONE OF THE EDUCATION LAW AND WHEN LAWFULLY PROVIDED OTHER THAN
56 THROUGH A PRESCRIPTION OR ORDER.

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

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

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