

4739--A

2015-2016 Regular Sessions

I N   S E N A T E

April 15, 2015

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Introduced by Sens. HANNON, ADDABBO, ESPAILLAT, FUNKE, GALLIVAN, HOYLMAN, LATIMER, RITCHIE, ROBACH -- 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 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; 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, and to amend chapter 274 of the laws of 2013, amending the education law relating to authorizing a licensed pharmacist and certified nurse practitioner to administer meningococcal disease immunizing agents, in relation to making the provisions thereof permanent

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  
11    authorize unlicensed persons to administer immunizations, vaccines or  
12    other drugs.

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

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

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

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

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

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

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

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

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

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

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

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

53 (D) PRIOR TO ADMINISTERING THE IMMUNIZATION, INFORM THE PATIENT OF THE  
54 TOTAL COST OF THE IMMUNIZATION OR IMMUNIZATIONS, SUBTRACTING ANY HEALTH  
55 INSURANCE SUBSIDIZATION, IF APPLICABLE. IN THE CASE THE IMMUNIZATION IS  
56 NOT COVERED, THE PHARMACIST MUST INFORM THE PATIENT OF THE POSSIBILITY

1 THAT THE IMMUNIZATION MAY BE COVERED WHEN ADMINISTERED BY A PRIMARY CARE  
2 PHYSICIAN OR PRACTITIONER; AND

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

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

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

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

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

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

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

54 S 6. Sections 5 and 6 of chapter 116 of the laws of 2012, amending the  
55 education law relating to authorizing a licensed pharmacist and certi-

1 fied nurse practitioner to administer certain immunizing agents, are  
2 amended to read as follows:

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

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

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

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

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

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

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

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

1 (a) the amendments to subdivision 7 of section 6527 of the education  
2 law made by section one of this act shall not affect the expiration of  
3 such subdivision and shall be deemed to be expired therewith;  
4 (b) the amendments to subdivision 7 of section 6909 of the education  
5 law, made by section two of this act shall not affect the expiration of  
6 such subdivision and shall be deemed to be expired therewith;  
7 (c) the amendments to subdivisions 2 and 4 of section 6801 of the  
8 education law, made by section three of this act shall not affect the  
9 expiration of such section and shall be deemed to expire therewith;  
10 (d) the amendments to subdivision 5 of section 6801 of the education  
11 law, made by section three of this act shall not affect the repeal of  
12 such subdivision and shall be deemed repealed therewith;  
13 (e) the amendments to subdivision 22 of section 6802 of the education  
14 law, made by section four of this act shall not affect the expiration of  
15 such subdivision and shall be deemed to be expired therewith; and  
16 (f) the amendments to paragraph (a) of subdivision 2 of section 6801  
17 of the education law made by section three of this act shall take effect  
18 on the one hundred eightieth day after it shall have become a law,  
19 provided, however, that effective immediately, any rules and regulations  
20 necessary to implement the provisions of this act on its effective date  
21 are authorized to be added, amended and/or repealed on or before such  
22 effective date.