S T A T E O F N E W Y O R K

4739--A

2015-2016 Regular Sessions

I N S E N A T E

April 15, 2015

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:

Section 1. Subdivision 7 of section 6527 of the education law, as amended by chapter 116 of the laws of 2012 and paragraph (c) as added by chapter 274 of the laws of 2013, is amended to read as follows:

7. [(a)] A licensed physician may prescribe and order a PATIENT SPECIFIC ORDER OR non-patient specific regimen to a licensed pharmacist, pursuant to regulations promulgated by the commissioner, and consistent with the public health law, for administering immunizations to prevent influenza [or], pneumococcal, ACUTE HERPES ZOSTER, MENINGOCOCCAL, TETANUS, DIPHTHERIA OR PERTUSSIS disease and medications required for emergency treatment of anaphylaxis. Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines or other drugs.

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

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

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

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

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

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

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

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

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

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

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

(c) report such administration, absent of any individually identifiable health information, to the department of health in a manner required by the commissioner of health.

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

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

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

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

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

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

22. "Administer", for the purpose of section sixty-eight hundred one of this article, means the direct application of an immunizing agent to adults, whether by injection, ingestion or any other means, pursuant to [a.] a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, who has a practice site in the county OR ADJOINING COUNTY in which the immunization is administered, for immunizations to prevent influenza [or], pneumococcal, ACUTE HERPES ZOSTER, MENINGOCOCCAL, TETANUS, DIPHTHERIA OR PERTUSSIS disease and medications required for emergency treatment of anaphylaxis [or b. a patient specific order prescribed or ordered by a physician or certified nurse practitioner for immunizations to prevent acute herpes zoster or meningococcal disease or c. a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner for immunizations to prevent meningococcal disease. If the county where the immunization is to be administered has a population of seventy-five thousand or less, then the licensed physician or certified nurse practitioner may be in an adjoining county. Such administration shall be limited to immunizing agents to prevent influenza or pneumococcal disease and medications required for emergency treatment of anaphylaxis]. IF THE COMMISSIONER OF HEALTH DETERMINES THAT THERE IS AN OUTBREAK OF DISEASE, OR THAT THERE IS THE IMMINENT THREAT OF AN OUTBREAK OF DISEASE, THEN THE COMMISSIONER OF HEALTH MAY ISSUE A NON-PATIENT SPECIFIC REGIMEN APPLICABLE STATEWIDE.

S 5. Section 8 of 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, as amended by chapter 316 of the laws of 2011, is amended to read as follows:

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

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

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

S 5. [The commissioner of health, in consultation with the superintendent of financial services and the commissioner of education, shall prepare and submit a report to the governor and the legislature, on or before October first, two thousand fourteen, regarding the rates of health insurance plan coverage for immunizations to prevent acute herpes zoster in New York state. This information shall include, but not be limited to, the total number of people receiving immunizations to prevent acute herpes zoster from health care providers as compared to pharmacies in New York state; the rates of coverage from health insurance plans, including Medicare, for people receiving immunizations to prevent acute herpes zoster from health care providers as compared to pharmacies in New York state; the amount of co-pays and other fees required by health insurance plans, including Medicare, for people receiving immunizations to prevent acute herpes zoster from health care providers as compared to pharmacies in New York state; and a list of health insurance plans that do not provide coverage for people receiving immunizations to prevent acute herpes zoster from health care providers as compared to pharmacies in New York state as well as the amount or amounts that are charges to an individual receiving immunizations to prevent herpes zoster without any health insurance coverage.

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

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

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

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

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

S 7. The commissioner of health, in consultation with the superintendent of financial services and the commissioner of education, shall prepare and submit a report to the governor and to the temporary president of the senate and the speaker of the assembly, on or before October first, two thousand nineteen, regarding rates of health insurance plan coverage for immunizations administered at pharmacies in New York state and any other subjects deemed relevant and necessary. This information shall include, but not be limited to, the total number of people receiving immunizations at pharmacies in New York state; the number of individuals reporting being under the care of a primary care physician or practitioner when receiving an immunization at a pharmacy; the rates of coverage from health insurance plans, including medicare, for people receiving immunizations from pharmacies in New York state; and the amount or amounts that are charges to an individual receiving immunizations without any health insurance coverage. The commissioner of health, superintendent of financial services and the commissioner of education may require pharmacists, private insurers, public insurers and others to submit information necessary to the completion of the report.

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

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

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

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

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

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

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