

# STATE OF NEW YORK

3793--A

2017-2018 Regular Sessions

## IN SENATE

January 27, 2017

Introduced by Sens. KRUEGER, AVELLA, BAILEY, HOYLMAN, MONTGOMERY, PARKER, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted 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 § 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.

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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 § 3. Subdivision 6 of section 6527 of the education law, as added by  
7 chapter 573 of the laws of 1999, paragraph (c) as amended by chapter 464  
8 of the laws of 2015, paragraph (d) as added by chapter 429 of the laws  
9 of 2005, paragraph (e) as added by chapter 352 of the laws of 2014,  
10 paragraph (f) as added by section 6 of part V of chapter 57 of the laws  
11 of 2015 and paragraph (g) as added by chapter 502 of the laws of 2016,  
12 is amended to read as follows:

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

- 17 (a) a registered professional nurse for:  
18 (i) administering immunizations[-];  
19 [(b)] (ii) the emergency treatment of anaphylaxis[-];  
20 [(e)] (iii) administering purified protein derivative (PPD) tests or  
21 other tests to detect or screen for tuberculosis infections[-];  
22 [(d)] (iv) administering tests to determine the presence of the human  
23 immunodeficiency virus[-];  
24 [(e)] (v) administering tests to determine the presence of the hepati-  
25 tis C virus[-];  
26 [(f)] (vi) the urgent or emergency treatment of opioid related over-  
27 dose or suspected opioid related overdose[-];  
28 [(g)] (vii) screening of persons at increased risk of syphilis, gonor-  
29 rhea and chlamydia[-];  
30 (viii) emergency contraception, to be administered to or dispensed to  
31 be self-administered by the patient, under section sixty-eight hundred  
32 thirty-two of this title; or  
33 (b) A licensed pharmacist, for dispensing emergency contraception, to  
34 be self-administered by the patient, under section sixty-eight hundred  
35 thirty-two of this title.

36 § 4. Subdivision 3 of section 6807 of the education law, as added by  
37 chapter 573 of the laws of 1999, is amended and a new subdivision 4 is  
38 added to read as follows:

39 3. A pharmacist may dispense drugs and devices to a registered profes-  
40 sional nurse, and a registered professional nurse may possess and admin-  
41 ister, drugs and devices, pursuant to a non-patient specific regimen  
42 prescribed or ordered by a licensed physician, licensed midwife or  
43 certified nurse practitioner, pursuant to regulations promulgated by the  
44 commissioner and the public health law.

45 4. A licensed pharmacist may dispense a non-patient specific regimen  
46 of emergency contraception, to be self-administered by the patient,  
47 prescribed or ordered by a licensed physician, certified nurse practi-  
48 tioner, or licensed midwife, under section sixty-eight hundred thirty-  
49 two of this article.

50 § 5. The education law is amended by adding a new section 6832 to read  
51 as follows:

52 § 6832. Emergency contraception; non-patient specific prescription or  
53 order. 1. As used in this section, the following terms shall have the  
54 following meanings, unless the context requires otherwise:

55 (a) "Emergency contraception" means one or more prescription or non-  
56 prescription drugs, used separately or in combination, in a dosage and

1 manner for preventing pregnancy when used after intercourse, found safe  
 2 and effective for that use by the United States food and drug adminis-  
 3 tration, and dispensed or administered for that purpose.

4 (b) "Prescriber" means a licensed physician, certified nurse practi-  
 5 tioner or licensed midwife.

6 2. This section applies to the administering or dispensing of emergen-  
 7 cy contraception by a registered professional nurse or licensed pharma-  
 8 cist pursuant to a prescription or order for a non-patient specific  
 9 regimen made by a prescriber under section sixty-five hundred twenty-  
 10 seven, sixty-nine hundred nine or sixty-nine hundred fifty-one of this  
 11 title. This section does not apply to administering or dispensing emer-  
 12 gency contraception when lawfully done without such a prescription or  
 13 order.

14 3. The administering or dispensing of emergency contraception by a  
 15 registered professional nurse or licensed pharmacist shall be done in  
 16 accordance with professional standards of practice and in accordance  
 17 with written procedures and protocols agreed to by the registered  
 18 professional nurse or licensed pharmacist and the prescriber or a hospi-  
 19 tal (licensed under article twenty-eight of the public health law) that  
 20 provides gynecological or family planning services.

21 4. (a) When emergency contraception is administered or dispensed, the  
 22 registered professional nurse or licensed pharmacist shall provide to  
 23 the patient written material that includes: (i) the clinical consider-  
 24 ations and recommendations for use of the drug; (ii) the appropriate  
 25 method for using the drug; (iii) information on the importance of  
 26 follow-up health care; (iv) information on the health risks and other  
 27 dangers of unprotected intercourse; and (v) referral information relat-  
 28 ing to health care and services relating to sexual abuse and domestic  
 29 violence.

30 (b) Such written material shall be developed or approved by the  
 31 commissioner in consultation with the department of health and the Amer-  
 32 ican college of obstetricians and gynecologists.

33 § 6. Subdivision 4 of section 6909 of the education law, as added by  
 34 chapter 573 of the laws of 1999, paragraph (a) as amended by chapter 221  
 35 of the laws of 2002, paragraph (c) as amended by chapter 464 of the laws  
 36 of 2015, paragraph (d) as added by chapter 429 of the laws of 2005,  
 37 paragraph (e) as added by chapter 352 of the laws of 2014, paragraph (f)  
 38 as added by section 5 of part V of chapter 57 of the laws of 2015 and  
 39 paragraph (g) as added by chapter 502 of the laws of 2016, is amended to  
 40 read as follows:

41 4. A certified nurse practitioner may prescribe and order a non-pa-  
 42 tient specific regimen [~~to a registered professional nurse~~], pursuant to  
 43 regulations promulgated by the commissioner, consistent with subdivision  
 44 three of section six thousand nine hundred two of this article, and  
 45 consistent with the public health law, [~~for~~] to:

- 46 (a) a registered professional nurse for:  
 47 (i) administering immunizations[+];  
 48 [~~(b)~~](ii) the emergency treatment of anaphylaxis[+];  
 49 [~~(c)~~](iii) administering purified protein derivative (PPD) tests or  
 50 other tests to detect or screen for tuberculosis infections[+];  
 51 [~~(d)~~](iv) administering tests to determine the presence of the human  
 52 immunodeficiency virus[+];  
 53 [~~(e)~~](v) administering tests to determine the presence of the hepati-  
 54 tis C virus[+];  
 55 [~~(f)~~](vi) the urgent or emergency treatment of opioid related overdose  
 56 or suspected opioid related overdose[+];

1 [~~(g)~~](vii) screening of persons at increased risk for syphilis, gonorrhea and chlamydia[~~r~~];

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3 (viii) emergency contraception, to be administered to or dispensed to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title; or

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6 (b) a licensed pharmacist, for dispensing emergency contraception, to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title.

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

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11 5. A registered professional nurse may execute a non-patient specific regimen prescribed or ordered by a licensed physician, licensed midwife or certified nurse practitioner, pursuant to regulations promulgated by the commissioner.

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

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17 4. A licensed midwife may prescribe and order a non-patient specific regimen pursuant to regulations promulgated by the commissioner, consistent with this section and the public health law, to:

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20 (a) a registered professional nurse for emergency contraception, to be administered to or dispensed to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title; or

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23 (b) a licensed pharmacist, for dispensing emergency contraception, to be self-administered by the patient, under section sixty-eight hundred thirty-two of this title.

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

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28 (n) Any policy under this article that covers contraception when provided pursuant to a prescription shall cover emergency contraception as defined in paragraph (a) of subdivision one of section sixty-eight hundred thirty-two of the education law, when provided pursuant to an ordinary prescription or order under section sixty-eight hundred thirty-two of the education law and when lawfully provided other than through a prescription or order.

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

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37 (t) Any policy under this article that covers contraception when provided pursuant to a prescription, shall cover emergency contraception as defined in paragraph (a) of subdivision one of section sixty-eight hundred thirty-two of the education law, when provided pursuant to an ordinary prescription or order under section sixty-eight hundred thirty-two of the education law and when lawfully provided other than through a prescription or order.

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

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46 (n) Any policy under this article that covers contraception when provided pursuant to a prescription, shall cover emergency contraception as defined in paragraph (a) of subdivision one of section sixty-eight hundred thirty-two of the education law, when provided pursuant to an ordinary prescription or order under section sixty-eight hundred thirty-two of the education law and when lawfully provided other than through a prescription or order.

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

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55 (o) Emergency contraception, including information about its safety, efficacy, appropriate use and availability.

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1 § 13. This act shall take effect on the one hundred eightieth day  
2 after it shall have become a law; provided, however, that sections nine,  
3 ten and eleven of this act shall apply to policies and contracts issued,  
4 renewed, modified, altered or amended on or after such effective date.  
5 The commissioner of education is authorized to promulgate any and all  
6 rules and regulations and take any other measures necessary to implement  
7 this act on its effective date on or before such effective date.