AN ACT to amend the education law, in relation to authorizing pharmacists to dispense HIV pre-exposure and post-exposure prophylaxis

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1. Section 1. Subdivision 7-a of section 6527 of the education law, as added by chapter 502 of the laws of 2016, is amended to read as follows:

    7-a. A licensed physician may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law, for dispensing up to a seven day starter pack of HIV post-exposure prophylaxis for the purpose of preventing human immunodeficiency virus infection following a potential human immunodeficiency virus exposure. A licensed physician may also prescribe and order a patient specific or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law and section sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis, provided, however, that the regulations promulgated pursuant to this subdivision shall require that the HIV pre-exposure prophylaxis authorized to be dispensed by a licensed pharmacist shall provide for at least a thirty-day, but no more than a sixty-day, supply of such prophylaxis.

2. Subdivision 8 of section 6909 of the education law, as added by chapter 502 of the laws of 2016, is amended to read as follows:

    8. A certified nurse practitioner may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law and section sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis, provided, however, that the regulations promulgated pursuant to this subdivision shall require that the HIV pre-exposure prophylaxis authorized to be dispensed by a licensed pharmacist shall provide for at least a thirty-day, but no more than a sixty-day, supply of such prophylaxis.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.
non-patient specific order to a licensed pharmacist, pursuant to regu-
lations promulgated by the commissioner in consultation with the commis-
sioner of health, and consistent with the public health law and section
sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis,
provided, however, that the regulations promulgated pursuant to this
subdivision shall require that the HIV pre-exposure prophylaxis author-
ized to be dispensed by a licensed pharmacist shall provide for at least
a thirty-day, but no more than a sixty-day, supply of such prophylaxis.

§ 3. Subdivision 5 of section 6801 of the education law, as added by
chapter 502 of the laws of 2016, is amended and a new subdivision 6 is
added to read as follows:

5. A licensed pharmacist may execute a non-patient specific order, for
dispensing up to a seven day starter pack of HIV post-exposure prophy-
laxis medications for the purpose of preventing human immunodeficiency
virus infection, by a physician licensed in this state or nurse practi-
tioner certified in this state, pursuant to rules and regulations
promulgated by the commissioner in consultation with the commissioner of
health following a potential human immunodeficiency virus exposure. The
pharmacist shall also inform the patient of the availability of pre-ex-
posure prophylaxis for persons who are at substantial risk of acquiring
HIV.

6. A licensed pharmacist may execute a non-patient specific order, for
dispensing HIV pre-exposure prophylaxis, pursuant to rules and regu-
lations promulgated by the commissioner in consultation with the commis-
sioner of health provided, however, that the rules and regulations
promulgated pursuant to this subdivision shall require that the HIV
pre-exposure prophylaxis authorized to be dispensed by a licensed phar-
macist shall provide for at least a thirty-day, but no more than a
sixty-day, supply of such prophylaxis. And provided, further, that the
following conditions shall be met before a pharmacist may dispense pre-
exposure prophylaxis:

(a) The pharmacist has completed a training program created by the
department of health on the use of pre-exposure prophylaxis. The train-
ing program shall educate pharmacists about the requirements of this
subdivision, the risks and side effects of the medication, patient
insurance and cost burdens, and any other information such department
deems necessary or important;

(b) The patient is HIV negative, as documented by a negative HIV test
result obtained within the previous seven days from an HIV
antigen/antibody test or antibody-only test or from a rapid, point-of-
care fingerstick blood test approved by the federal food and drug admin-
istration. If the patient does not provide evidence of a negative HIV
test in accordance with this paragraph, the pharmacist may recommend an
HIV test. If the patient tests positive for HIV infection, the pharma-
cist shall direct the patient to a licensed physician and provide the
patient with a list of health care service providers and clinics within
the county where the pharmacist is located or adjacent counties;

(c) The patient does not report any signs or symptoms of acute HIV
infection on a self-reported checklist of acute HIV infection signs and
symptoms;

(d) The patient does not report taking any contraindicated medica-
tions;

(e) The pharmacist provides written information, published by the
department of health, to the patient on the ongoing use of pre-exposure
prophylaxis, which may include education about side effects, safety
during pregnancy and breastfeeding, adherence to recommended dosing, and
the importance of timely testing and treatment, as applicable, for HIV, renal function, hepatitis B, hepatitis C, sexually transmitted diseases, and pregnancy for individuals of child-bearing capacity. The pharmacist shall notify the patient that the patient must be seen by a licensed physician to receive subsequent prescriptions for pre-exposure prophylaxis; and

(f) The pharmacist provides information, with the patient's consent, to the patient or, when the patient lacks capacity to consent, a person authorized to consent to health care for such individual, on the importance of having a health care provider, developed by the commissioner of health, and if the patient does not have a health care provider the pharmacist shall provide the patient a list of licensed physicians, clinics, or other health care service providers within the county where the pharmacist is located or adjacent counties.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, the amendments to 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. Effective immediately, the commissioner of education is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on or before such effective date.