

# STATE OF NEW YORK

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3040--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 22, 2021

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Introduced by M. of A. McDONALD, BLANKENBUSH, TAGUE, WALCZYK, BRABENEC, GOTTFRIED, JACKSON, STIRPE, GUNTHER, GRIFFIN, STECK, LUPARDO, BUTTENSCHON, WOERNER -- Multi-Sponsored by -- M. of A. SAYEGH -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the definition of the practice of pharmacy

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

1 Section 1. Subdivision 22 of section 6802 of the education law, as  
2 amended by chapter 555 of the laws of 2021, is amended to read as  
3 follows:

4 22. "Administer", for the purpose of section sixty-eight hundred one  
5 of this article, means:

6 a. (1) the direct application of an immunizing agent to adults, wheth-  
7 er by injection, ingestion, inhalation or any other means, pursuant to a  
8 patient specific order or non-patient specific regimen prescribed or  
9 ordered by a physician or certified nurse practitioner, for: immuniza-  
10 tions to prevent influenza, pneumococcal, acute herpes zoster, hepatitis  
11 A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicel-  
12 la, COVID-19, meningococcal, tetanus, diphtheria or pertussis disease  
13 and medications required for emergency treatment of anaphylaxis; and  
14 other immunizations recommended by the advisory committee on immuniza-  
15 tion practices of the centers for disease control and prevention for  
16 patients eighteen years of age or older if the commissioner of health in  
17 consultation with the commissioner determines that an immunization:  
18 (i)(A) may be safely administered by a licensed pharmacist within their  
19 lawful scope of practice; and (B) is needed to prevent the transmission  
20 of a reportable communicable disease that is prevalent in New York

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

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state; or (ii) is a recommended immunization for such patients who: (A) meet age requirements, (B) lack documentation of such immunization, (C) lack evidence of past infection, or (D) have an additional risk factor or another indication as recommended by the advisory committee on immunization practices of the centers for disease control and prevention. 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.

~~[b-]~~ (2) the direct application of an immunizing agent to children between the ages of two and eighteen years of age, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, for immunization to prevent influenza and medications required for emergency treatment of anaphylaxis resulting from such immunization. If the commissioner of health determines that there is an outbreak of influenza, or that there is the imminent threat of an outbreak of influenza, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

b. The injection of medications into the deltoid muscle for the treatment of mental health and substance use disorder, as prescribed or ordered by a licensed prescriber, acting within the scope of their practice in this state and in accordance with regulations promulgated by the commissioner and the department of health in consultation with any other state agencies as necessary, but not be limited to, providing that:

(1) Such administration is conducted pursuant to a valid prescription or order that authorizes a pharmacist to administer medications for the treatment of mental health and substance use disorder and the pharmacist notifies the licensed prescriber that the administration is complete. Administration in a pharmacy may not commence until after the patient has received the initial injection and is considered eligible for maintenance treatment by the licensed prescriber.

(2) Such prescription may be subject to reassessment at appropriate intervals, as determined by the licensed prescriber.

(3) Such activity is conducted in accordance with regulations, promulgated or adopted by the commissioner and the department of health, in consultation with any other state agencies, as necessary, which shall include requirements for the following:

(i) Training accredited by the accreditation council for pharmacy education, that may include educational experiences obtained through pharmacy school curricula, or a similar health authority or professional body appropriate for the medications being administered and their respective patient populations. Such training must be satisfactory to the commissioner and the department of health, in consultation with the board of pharmacy and any other state agencies, as necessary, which shall include, but not be limited to learning modules on techniques for administration by injections, indications, precautions, and contraindications in the use of agent or agents; record keeping and information; and handling emergencies, including anaphylaxis, needle-sticks and cardiopulmonary resuscitation.

(ii) Maintaining continued competency regarding the populations served and medications administered.

(iii) Pre-administration patient consent and education regarding common side effects, drug interactions, injection site reactions and other information routinely provided to patients upon dispensing. If a patient is unable to provide consent, the pharmacist must obtain consent

1 from a person legally responsible when the recipient is incapable of  
2 consenting.

3 (iv) When administering an injection in a pharmacy, the pharmacist  
4 shall provide an area for the injection that provides for the patient's  
5 privacy.

6 (v) Record keeping and reporting of such administration by electronic  
7 transmission or facsimile to the patient's licensed prescriber, and, to  
8 the extent practicable, make himself or herself available to discuss the  
9 outcome of such injection, including any adverse reactions, with the  
10 licensed prescriber acting within their scope of practice.

11 § 2. Section 6801 of the education law is amended by adding a new  
12 subdivision 8 to read as follows:

13 8. A licensed pharmacist within their lawful scope of practice may  
14 administer injectable medications into the deltoid muscle for the treat-  
15 ment of mental health and substance use disorder, as prescribed or  
16 ordered by a licensed prescriber, acting within their scope of practice  
17 in this state and in accordance with regulations, including but not  
18 limited to regulations promulgated by the commissioner and any other  
19 state agencies, as necessary.

20 § 3. This act shall take effect on the one hundred eightieth day after  
21 it shall have become a law. Effective immediately, the addition, amend-  
22 ment and/or repeal of any rule or regulation necessary for the implemen-  
23 tation of this act on its effective date are authorized to be made and  
24 completed by the commissioner of education on or before such date.