

# STATE OF NEW YORK

5186--A

2021-2022 Regular Sessions

## IN ASSEMBLY

February 11, 2021

Introduced by M. of A. PAULIN, GOTTFRIED, ENGLEBRIGHT, GALEF, GLICK, L. ROSENTHAL, FAHY, ABINANTI, STECK, SEAWRIGHT, WEPRIN -- Multi-Sponsored by -- M. of A. AUBRY, CAHILL, COOK, DINOWITZ, GUNTHER, HEVESI, LUPARDO, PERRY, PRETLOW, THIELE -- 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, 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.

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

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1 The legislature deems it necessary to create a structure for simplify-  
2 ing access to EC for these women, while respecting and preserving the  
3 prescribing scope of practice for physicians, nurse practitioners, and  
4 midwives; the treating and case-finding scope of practice of registered  
5 professional nurses; and the dispensing scope of practice of pharma-  
6 cists. This act does not alter the scope of such professions, nor does  
7 this legislation interfere with non-prescription access to EC where it  
8 is otherwise lawful.

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

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

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

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

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

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

53 § 5. The education law is amended by adding a new section 6833 to read  
54 as follows:

1 § 6833. Emergency contraception; non-patient specific prescription or  
 2 order. 1. As used in this section, the following terms shall have the  
 3 following meanings, unless the context requires otherwise:

4 (a) "Emergency contraception" means one or more prescription or non-  
 5 prescription drugs, used separately or in combination, in a dosage and  
 6 manner for preventing pregnancy when used after intercourse, found safe  
 7 and effective for that use by the United States food and drug adminis-  
 8 tration, and dispensed or administered for that purpose.

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

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

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

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

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

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

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

51 (a) a registered professional nurse for:

52 (i) administering immunizations[~~+~~];

53 [~~(b)~~](ii) the emergency treatment of anaphylaxis[~~+~~];

54 [~~(c)~~](iii) administering purified protein derivative (PPD) tests or  
 55 other tests to detect or screen for tuberculosis infections[~~+~~];

1 [~~(d)~~](iv) administering tests to determine the presence of the human  
2 immunodeficiency virus[-];

3 [~~(e)~~](v) administering tests to determine the presence of the hepatis  
4 tis C virus[-];

5 [~~(f)~~](vi) the urgent or emergency treatment of opioid related overdose  
6 or suspected opioid related overdose[-];

7 [~~(g)~~](vii) screening of persons at increased risk for syphilis, gonor-  
8 rhea and chlamydia[-];

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

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

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

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

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

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

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

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

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

34 (n) Any policy under this article that covers contraception when  
35 provided pursuant to a prescription shall cover emergency contraception  
36 as defined in paragraph (a) of subdivision one of section sixty-eight  
37 hundred thirty-three of the education law, when provided pursuant to an  
38 ordinary prescription or order under section sixty-eight hundred thir-  
39 ty-three of the education law and when lawfully provided other than  
40 through a prescription or order.

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

43 (u) Any policy under this article that covers contraception when  
44 provided pursuant to a prescription, shall cover emergency contraception  
45 as defined in paragraph (a) of subdivision one of section sixty-eight  
46 hundred thirty-three of the education law, when provided pursuant to an  
47 ordinary prescription or order under section sixty-eight hundred thir-  
48 ty-three of the education law and when lawfully provided other than  
49 through a prescription or order.

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

52 (n) Any policy under this article that covers contraception when  
53 provided pursuant to a prescription, shall cover emergency contraception  
54 as defined in paragraph (a) of subdivision one of section sixty-eight  
55 hundred thirty-three of the education law, when provided pursuant to an  
56 ordinary prescription or order under section sixty-eight hundred thir-

1 ty-three of the education law and when lawfully provided other than  
2 through a prescription or order.

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

5 (q) Emergency contraception, including information about its safety,  
6 efficacy, appropriate use and availability.

7 § 13. This act shall take effect on the one hundred eightieth day  
8 after it shall have become a law; provided, however, that sections nine,  
9 ten and eleven of this act shall apply to policies and contracts issued,  
10 renewed, modified, altered or amended on or after such effective date.

11 The commissioner of education is authorized to promulgate any and all  
12 rules and regulations and take any other measures necessary to implement  
13 this act on its effective date on or before such effective date.