STATE OF NEW YORK

6476--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 18, 2021

Introduced by M. of A. HYNDMAN, TAYLOR, McDONALD, THIELE, DICKENS, JONES, PAULIN, STIRPE, WALLACE, LAWLER, BRAUNSTEIN, DAVILA, PICHARDO, SIMON, SILLITTI, SCHMITT, BUTTENSCHON, ENGLEBRIGHT, MIKULIN -- Multi-Sponsored by -- M. of A. ANGELINO, TAGUE -- read once and referred 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 authorizing the administration of vaccines for hepatitis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicella and COVID-19 by a licensed pharmacist and requiring pharmacists who administer immunizations to report the immunizations to the department of health; and 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, 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, 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, and chapter 110 of the laws of 2020, amending the education law relating to authorizing licensed pharmacists to administer an approved vaccine for COVID-19, in relation to making such provisions 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 110 of the laws of 2020, is amended to read as follows:

7. 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**:** **(a)** administering immunizations to prevent influenza[~~,~~] **to patients two years of age or older; and (b) administering immunizations to prevent** pneumococcal, acute herpes zoster, **hepati-**

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

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tis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria[~~, COVID-19,~~] or pertussis disease and medications required for emergency treatment of anaphylaxis to patients eighteen years of age or older; and (c) administering other immunizations recommended by the advisory committee on immunization practices of the centers for disease control and prevention for patients eighteen years of age or older if the commissioner of health in consultation with the commissioner determines that an immunization: (i) (A) may be safely administered by a licensed pharmacist within their lawful scope of practice; and (B) is needed to prevent the transmission of a reportable communicable disease that is prevalent in New York 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. Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines or other drugs.

§ 2. Subdivision 22 of section 6802 of the education law, as amended by chapter 110 of the laws of 2020, is amended to read as follows:

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

a. the direct application of an immunizing agent to adults, 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, [~~who has a practice site in the county or adjoining county in which the immunization is administered,~~] for: immunizations to prevent influenza, pneumococcal, acute herpes zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria[~~, COVID-19,~~] or pertussis disease and medications required for emergency treatment of anaphylaxis; and other immunizations recommended by the advisory committee on immunization practices of the centers for disease control and prevention for patients eighteen years of age or older if the commissioner of health in consultation with the commissioner determines that an immunization: (i)(A) may be safely administered by a licensed pharmacist within their lawful scope of practice; and (B) is needed to prevent the transmission of a reportable communicable disease that is prevalent in New York 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. 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, [~~who has a practice site in the county or adjoining county in which the immunization is administered,~~] 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.

§ 3. Subdivision 7 of section 6909 of the education law, as amended by chapter 110 of the laws of 2020, is amended to read as follows:

7. 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**: (a)** administering immunizations to prevent influenza[~~,~~] **to patients two years of age or older; and (b) administering immunizations to prevent** pneumococcal, acute herpes zoster, **hepatitis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicella, COVID-19,** meningococcal, tetanus, diphtheria[~~, COVID-19,~~] or pertussis disease and medications required for emergency treatment of anaphylaxis **to patients eighteen years of age or older; and (c) administering other immunizations recommended by the advisory committee on immunization practices of the centers for disease control and prevention for patients eighteen years of age or older if the commissioner of health in consultation with the commissioner determines that an immunization: (i) (A) may be safely administered by a licensed pharmacist within their lawful scope of practice; and (B) is needed to prevent the transmission of a reportable communicable disease that is prevalent in New York 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**. Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines or other drugs.

§ 4. A licensed pharmacist who administers an immunization pursuant to this act shall report the immunization to the department of health either through the statewide immunization information system or the citywide immunization registry under section 2168 of the public health law, notwithstanding any provision of that section to the contrary.

§ 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 section 18 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

§ 8. 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, 2022~~].

§ 6. Section 5 of 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, as amended by section 19 of part BB of chapter 56 of the laws of 2020, is amended to read as follows:

§ 5. This act shall take effect on the ninetieth day after it shall have become a law[~~, provided, however, that the provisions of sections one, two and four of this act shall expire and be deemed repealed July 1, 2022 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~~].

§ 7. Section 4 of 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, is amended to read as follows:

§ 4. This act shall take effect on the ninetieth day after it shall have become a law[~~; 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 expiration and reversion of such subdivision, as provided in section 6 of chapter 116 of the laws of 2012, and shall be deemed to expire therewith; and~~

~~(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 and reversion of such subdivision, as provided in section 6 of chapter 116 of the laws of 2012, and shall be deemed to be expire therewith; and~~

~~(c) the amendments to subdivision 22 of section 6802 of the education law made by section three of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith~~].

§ 8. Section 4 of chapter 110 of the laws of 2020, amending the education law relating to authorizing licensed pharmacists to administer an approved vaccine for COVID-19, is amended to read as follows:

§ 4. This act shall take effect no sooner than ninety days from the date of approval of a COVID-19 immunization by the United States Food and Drug Administration's Center for Biologics Evaluation and Research [~~and shall expire and be deemed repealed July 1, 2022~~]; provided further that this act shall not take effect until the commissioner of health and the commissioner of education jointly certify that the administration of such immunization pursuant to this act would be in the best interest of public health; provided that the commissioner of health and the commissioner of education shall notify the legislative bill drafting commission upon the occurrence of such certification in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law[~~; provided further, 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 expire therewith;~~

~~(b) the amendments to subdivision 22 of section 6802 of the education law made by section two of this act shall not affect the repeal of such subdivision pursuant to section 8 of chapter 563 of the laws of 2008, as amended, and shall be deemed repealed therewith; and~~

~~(c) the amendments to subdivision 7 of section 6909 of the education law, made by section three of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith~~].

§ 9. This act shall take effect on the ninetieth day after it shall have become a law.