

# STATE OF NEW YORK

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4807--A

Cal. No. 1136

2021-2022 Regular Sessions

## IN SENATE

February 12, 2021

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Introduced by Sens. STAVISKY, ADDABBO, BENJAMIN, BOYLE, BROOKS, COMRIE, COONEY, GALLIVAN, GOUNARDES, HINCHEY, HOYLMAN, JACKSON, KAMINSKY, PARKER, REICHLIN-MELNICK, SALAZAR, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged and said bill committed to the Committee on Higher Education -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

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:

1 Section 1. Subdivision 7 of section 6527 of the education law, as  
2 amended by chapter 110 of the laws of 2020, is amended to read as  
3 follows:

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

LBD09371-08-1

1 7. A licensed physician may prescribe and order a patient specific  
2 order or non-patient specific regimen to a licensed pharmacist, pursuant  
3 to regulations promulgated by the commissioner, and consistent with the  
4 public health law, for: (a) administering immunizations to prevent  
5 influenza[7] to patients two years of age or older; and (b) administer-  
6 ing immunizations to prevent pneumococcal, acute herpes zoster, hepati-  
7 tis A, hepatitis B, human papillomavirus, measles, mumps, rubella, vari-  
8 cella, COVID-19, meningococcal, tetanus, diphtheria[7, COVID-19,] or  
9 pertussis disease and medications required for emergency treatment of  
10 anaphylaxis to patients eighteen years of age or older; and (c) adminis-  
11 tering other immunizations recommended by the advisory committee on  
12 immunization practices of the centers for disease control and prevention  
13 for patients eighteen years of age or older if the commissioner of  
14 health in consultation with the commissioner determines that an immuni-  
15 zation: (i) (A) may be safely administered by a licensed pharmacist  
16 within their lawful scope of practice; and (B) is needed to prevent the  
17 transmission of a reportable communicable disease that is prevalent in  
18 New York state; or (ii) is a recommended immunization for such patients  
19 who: (A) meet age requirements, (B) lack documentation of such immuniza-  
20 tion, (C) lack evidence of past infection, or (D) have an additional  
21 risk factor or another indication as recommended by the advisory commit-  
22 tee on immunization practices of the centers for disease control and  
23 prevention. Nothing in this subdivision shall authorize unlicensed  
24 persons to administer immunizations, vaccines or other drugs.

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

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

29 a. the direct application of an immunizing agent to adults, whether by  
30 injection, ingestion, inhalation or any other means, pursuant to a  
31 patient specific order or non-patient specific regimen prescribed or  
32 ordered by a physician or certified nurse practitioner, [~~who has a prac-~~  
33 ~~tice site in the county or adjoining county in which the immunization is~~  
34 ~~administered,~~] for: immunizations to prevent influenza, pneumococcal,  
35 acute herpes zoster, hepatitis A, hepatitis B, human papillomavirus,  
36 measles, mumps, rubella, varicella, COVID-19, meningococcal, tetanus,  
37 diphtheria[7, COVID-19,] or pertussis disease and medications required  
38 for emergency treatment of anaphylaxis; and other immunizations recom-  
39 ended by the advisory committee on immunization practices of the  
40 centers for disease control and prevention for patients eighteen years  
41 of age or older if the commissioner of health in consultation with the  
42 commissioner determines that an immunization: (i)(A) may be safely  
43 administered by a licensed pharmacist within their lawful scope of prac-  
44 tice; and (B) is needed to prevent the transmission of a reportable  
45 communicable disease that is prevalent in New York state; or (ii) is a  
46 recommended immunization for such patients who: (A) meet age require-  
47 ments, (B) lack documentation of such immunization, (C) lack evidence of  
48 past infection, or (D) have an additional risk factor or another indi-  
49 cation as recommended by the advisory committee on immunization prac-  
50 tices of the centers for disease control and prevention. If the commis-  
51 sioner of health determines that there is an outbreak of disease, or  
52 that there is the imminent threat of an outbreak of disease, then the  
53 commissioner of health may issue a non-patient specific regimen applica-  
54 ble statewide.

55 b. the direct application of an immunizing agent to children between  
56 the ages of two and eighteen years of age, whether by injection, inges-

1 tion, inhalation or any other means, pursuant to a patient specific  
2 order or non-patient specific regimen prescribed or ordered by a physi-  
3 cian or certified nurse practitioner, [~~who has a practice site in the~~  
4 ~~county or adjoining county in which the immunization is administered,~~]  
5 for immunization to prevent influenza and medications required for emer-  
6 gency treatment of anaphylaxis resulting from such immunization. If the  
7 commissioner of health determines that there is an outbreak of influen-  
8 za, or that there is the imminent threat of an outbreak of influenza,  
9 then the commissioner of health may issue a non-patient specific regimen  
10 applicable statewide.

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

13 7. A certified nurse practitioner may prescribe and order a patient  
14 specific order or non-patient specific regimen to a licensed pharmacist,  
15 pursuant to regulations promulgated by the commissioner, and consistent  
16 with the public health law, for: (a) administering immunizations to  
17 prevent influenza[7] to patients two years of age or older; and (b)  
18 administering immunizations to prevent pneumococcal, acute herpes zost-  
19 er, hepatitis A, hepatitis B, human papillomavirus, measles, mumps,  
20 rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria[7  
21 ~~COVID-19,~~] or pertussis disease and medications required for emergency  
22 treatment of anaphylaxis to patients eighteen years of age or older; and  
23 (c) administering other immunizations recommended by the advisory  
24 committee on immunization practices of the centers for disease control  
25 and prevention for patients eighteen years of age or older if the  
26 commissioner of health in consultation with the commissioner determines  
27 that an immunization: (i) (A) may be safely administered by a licensed  
28 pharmacist within their lawful scope of practice; and (B) is needed to  
29 prevent the transmission of a reportable communicable disease that is  
30 prevalent in New York state; or (ii) is a recommended immunization  
31 for such patients who: (A) meet age requirements, (B) lack documentation  
32 of such immunization, (C) lack evidence of past infection, or (D) have  
33 an additional risk factor or another indication as recommended by the  
34 advisory committee on immunization practices of the centers for disease  
35 control and prevention. Nothing in this subdivision shall authorize  
36 unlicensed persons to administer immunizations, vaccines or other drugs.

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

42 § 5. Section 8 of chapter 563 of the laws of 2008, amending the educa-  
43 tion law and the public health law relating to immunizing agents to be  
44 administered to adults by pharmacists, as amended by section 18 of part  
45 BB of chapter 56 of the laws of 2020, is amended to read as follows:

46 § 8. This act shall take effect on the ninetieth day after it shall  
47 have become a law [~~and shall expire and be deemed repealed July 1,~~  
48 ~~2022~~].

49 § 6. Section 5 of chapter 116 of the laws of 2012, amending the educa-  
50 tion law relating to authorizing a licensed pharmacist and certified  
51 nurse practitioner to administer certain immunizing agents, as amended  
52 by section 19 of part BB of chapter 56 of the laws of 2020, is amended  
53 to read as follows:

54 § 5. This act shall take effect on the ninetieth day after it shall  
55 have become a law[~~7, 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~~

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

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