

STATE OF NEW YORK

2198

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. BARRETT, GOTTFRIED -- read once and referred to the Committee on Higher Education

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
2 added by chapter 502 of the laws of 2016, is amended to read as follows:

3 7-a. A licensed physician may prescribe and order a patient specific
4 order or non-patient specific order to a licensed pharmacist, pursuant
5 to regulations promulgated by the commissioner in consultation with the
6 commissioner of health, and consistent with the public health law, for
7 dispensing up to a seven day starter pack of HIV post-exposure prophylaxis
8 for the purpose of preventing human immunodeficiency virus
9 infection following a potential human immunodeficiency virus exposure. A
10 licensed physician may also prescribe and order a patient specific or
11 non-patient specific order to a licensed pharmacist, pursuant to regulations
12 promulgated by the commissioner in consultation with the commissioner
13 of health, and consistent with the public health law and section
14 sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis,
15 provided, however, that the regulations promulgated pursuant to this
16 subdivision shall require that the HIV pre-exposure prophylaxis authorized
17 to be dispensed by a licensed pharmacist shall provide for at least
18 a thirty-day, but no more than a sixty-day, supply of such prophylaxis.

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

21 8. A certified nurse practitioner may prescribe and order a patient
22 specific order or non-patient specific order to a licensed pharmacist,
23 pursuant to regulations promulgated by the commissioner in consultation
24 with the commissioner of health, and consistent with the public health
25 law, for dispensing up to a seven day starter pack of HIV post-exposure

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

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1 prophylaxis for the purpose of preventing human immunodeficiency virus
2 infection following a potential human immunodeficiency virus exposure. A
3 certified nurse practitioner may also prescribe and order a patient
4 specific or non-patient specific order to a licensed pharmacist, pursu-
5 ant to regulations promulgated by the commissioner in consultation with
6 the commissioner of health, and consistent with the public health law
7 and section sixty-eight hundred one of this title, for HIV pre-exposure
8 prophylaxis, provided, however, that the regulations promulgated pursu-
9 ant to this subdivision shall require that the HIV pre-exposure prophy-
10 laxis authorized to be dispensed by a licensed pharmacist shall provide
11 for at least a thirty-day, but no more than a sixty-day, supply of such
12 prophylaxis.

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

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

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

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

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

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

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

1 (e) The pharmacist does not furnish more than a sixty-day supply of
2 pre-exposure prophylaxis to a single patient more than once every two
3 years, unless directed otherwise by a prescriber.

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

14 (g) The pharmacist provides information, with the patient's consent,
15 to the patient or, when the patient lacks capacity to consent, a person
16 authorized to consent to health care for such individual, on the impor-
17 tance of having a health care provider, developed by the commissioner of
18 health, and if the patient does not have a health care provider the
19 pharmacist shall provide the patient a list of licensed physicians,
20 clinics, or other health care service providers within the county where
21 the pharmacist is located or adjacent counties.

22 § 4. This act shall take effect on the one hundred eightieth day after
23 it shall have become a law; provided, however, the amendments to section
24 6801 of the education law made by section three of this act shall not
25 affect the expiration of such section and shall be deemed to expire
26 therewith. Effective immediately, the addition, amendment and/or repeal
27 of any rule or regulation necessary for the implementation of this act
28 on its effective date are authorized to be made on or before such date.