STATE OF NEW YORK

3040--B

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

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 -- again reported from said committee with amendments, 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:

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

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

a. **(1)** 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, for: immunizations to prevent influenza, pneumococcal, acute herpes zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria 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

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

LBD03519-08-2

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.~~] **(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 from a person legally responsible when the recipient is incapable of consenting.

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

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

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

8. A licensed pharmacist within their lawful scope of practice may administer injectable medications into the deltoid muscle, pursuant to section six thousand eight hundred two of this article, for the treatment of mental health and substance use disorder, as prescribed or ordered by a licensed prescriber, acting within their scope of practice in this state and in accordance with regulations, including but not limited to regulations promulgated by the commissioner in consultation with any other state agencies, as necessary.

§ 3. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed by the commissioner of education on or before such date.