

# STATE OF NEW YORK

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4870--B

Cal. No. 1238

2021-2022 Regular Sessions

## IN SENATE

February 17, 2021

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Introduced by Sens. BRESLIN, ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

1 Section 1. Subdivision 22 of section 6802 of the education law, as  
2 amended by chapter 555 of the laws of 2021, is amended to read as  
3 follows:  
4 22. "Administer", for the purpose of section sixty-eight hundred one  
5 of this article, means:  
6 a. (1) the direct application of an immunizing agent to adults, wheth-  
7 er by injection, ingestion, inhalation or any other means, pursuant to a  
8 patient specific order or non-patient specific regimen prescribed or  
9 ordered by a physician or certified nurse practitioner, for: immuniza-  
10 tions to prevent influenza, pneumococcal, acute herpes zoster, hepatitis  
11 A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicel-  
12 la, COVID-19, meningococcal, tetanus, diphtheria or pertussis disease  
13 and medications required for emergency treatment of anaphylaxis; and  
14 other immunizations recommended by the advisory committee on immuniza-  
15 tion practices of the centers for disease control and prevention for  
16 patients eighteen years of age or older if the commissioner of health in  
17 consultation with the commissioner determines that an immunization:  
18 (i)(A) may be safely administered by a licensed pharmacist within their  
19 lawful scope of practice; and (B) is needed to prevent the transmission

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

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1 of a reportable communicable disease that is prevalent in New York  
2 state; or (ii) is a recommended immunization for such patients who: (A)  
3 meet age requirements, (B) lack documentation of such immunization, (C)  
4 lack evidence of past infection, or (D) have an additional risk factor  
5 or another indication as recommended by the advisory committee on immun-  
6 ization practices of the centers for disease control and prevention. If  
7 the commissioner of health determines that there is an outbreak of  
8 disease, or that there is the imminent threat of an outbreak of disease,  
9 then the commissioner of health may issue a non-patient specific regimen  
10 applicable statewide.

11 ~~[b-]~~ (2) the direct application of an immunizing agent to children  
12 between the ages of two and eighteen years of age, whether by injection,  
13 ingestion, inhalation or any other means, pursuant to a patient specific  
14 order or non-patient specific regimen prescribed or ordered by a physi-  
15 cian or certified nurse practitioner, for immunization to prevent influ-  
16 enza and medications required for emergency treatment of anaphylaxis  
17 resulting from such immunization. If the commissioner of health deter-  
18 mines that there is an outbreak of influenza, or that there is the immi-  
19 nent threat of an outbreak of influenza, then the commissioner of health  
20 may issue a non-patient specific regimen applicable statewide.

21 b. The injection of medications into the deltoid muscle for the treat-  
22 ment of mental health and substance use disorder, as prescribed or  
23 ordered by a licensed prescriber, acting within the scope of their prac-  
24 tice in this state and in accordance with regulations promulgated by the  
25 commissioner and the department of health in consultation with any other  
26 state agencies as necessary, but not be limited to, providing that:

27 (1) Such administration is conducted pursuant to a valid prescription  
28 or order that authorizes a pharmacist to administer medications for the  
29 treatment of mental health and substance use disorder and the pharmacist  
30 notifies the licensed prescriber that the administration is complete.  
31 Administration in a pharmacy may not commence until after the patient  
32 has received the initial injection and is considered eligible for main-  
33 tenance treatment by the licensed prescriber.

34 (2) Such prescription may be subject to reassessment at appropriate  
35 intervals, as determined by the licensed prescriber.

36 (3) Such activity is conducted in accordance with regulations, promul-  
37 gated or adopted by the commissioner and the department of health, in  
38 consultation with any other state agencies, as necessary, which shall  
39 include requirements for the following:

40 (i) Training accredited by the accreditation council for pharmacy  
41 education, that may include educational experiences obtained through  
42 pharmacy school curricula, or a similar health authority or professional  
43 body appropriate for the medications being administered and their  
44 respective patient populations. Such training must be satisfactory to  
45 the commissioner and the department of health, in consultation with the  
46 board of pharmacy and any other state agencies, as necessary, which  
47 shall include, but not be limited to learning modules on techniques for  
48 administration by injections, indications, precautions, and contraindi-  
49 cations in the use of agent or agents; record keeping and information;  
50 and handling emergencies, including anaphylaxis, needle-sticks and  
51 cardiopulmonary resuscitation.

52 (ii) Maintaining continued competency regarding the populations served  
53 and medications administered.

54 (iii) Pre-administration patient consent and education regarding  
55 common side effects, drug interactions, injection site reactions and  
56 other information routinely provided to patients upon dispensing. If a

1 patient is unable to provide consent, the pharmacist must obtain consent  
2 from a person legally responsible when the recipient is incapable of  
3 consenting.

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

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

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

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

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