

# STATE OF NEW YORK

5995

2023-2024 Regular Sessions

## IN ASSEMBLY

March 30, 2023

Introduced by M. of A. BARRETT -- 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-]~~ 11. A certified nurse practitioner may prescribe and order a  
22 patient specific order or non-patient specific order to a licensed pharmacist,  
23 pursuant to regulations promulgated by the commissioner in  
24 consultation with the commissioner of health, and consistent with the  
25 public health law, for dispensing up to a seven day starter pack of HIV

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

LBD01383-02-3

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

13  
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. Effective immediately, the addition, amend-  
24 ment and/or repeal of any rule or regulation necessary for the implemen-  
25 tation of this act on its effective date are authorized to be made and  
26 completed on or before such date.