

# STATE OF NEW YORK

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2023-2024 Regular Sessions

## IN SENATE

January 17, 2023

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Introduced by Sens. HINCHEY, CLEARE, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, the insurance law and the public health law, in relation to providing for dispensing emergency contraception under certain conditions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "unintended pregnancy prevention act".

3 § 2. Legislative findings. The United States Food and Drug Adminis-  
4 tration (FDA) has declared emergency contraceptive drugs to be safe and  
5 effective. There is neither medical nor public health research that  
6 validates an age restriction on access to emergency contraception (EC).  
7 Furthermore, no specific medical conditions preclude a woman from using  
8 EC. The only contraindication to EC use is pregnancy itself, not because  
9 it represents a danger to the woman or to the embryo but because it  
10 would be inefficient in preventing the pregnancy. Pregnancy prevention,  
11 not abortion, is caused by the use of emergency contraceptive drugs.

12 The legislature deems it necessary to guarantee immediate access to EC  
13 to all, especially young women. Nearly thirty percent of United States  
14 teenage girls become pregnant before reaching twenty years of age. Teens  
15 are more likely than adults to experience contraceptive failure, which  
16 may lead to unintended pregnancies and consequently dangerous medical  
17 issues for both mother and baby.

18 The legislature deems it necessary to create a structure for simplify-  
19 ing access to EC for these women, while respecting and preserving the  
20 prescribing scope of practice for physicians, nurse practitioners, and  
21 midwives; the treating and case-finding scope of practice of registered  
22 professional nurses; and the dispensing scope of practice of pharma-  
23 cists. This act does not alter the scope of such professions, nor does

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

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1 this legislation interfere with non-prescription access to EC where it  
2 is otherwise lawful.

3 § 3. Subdivision 6 of section 6527 of the education law, as added by  
4 chapter 573 of the laws of 1999, paragraph (c) as amended by chapter 464  
5 of the laws of 2015, paragraph (d) as added by chapter 429 of the laws  
6 of 2005, paragraph (e) as added by chapter 352 of the laws of 2014,  
7 paragraph (f) as added by section 6 of part V of chapter 57 of the laws  
8 of 2015, paragraph (g) as added by chapter 502 of the laws of 2016 and  
9 paragraph (h) as added by section 6 of part C of chapter 57 of the laws  
10 of 2022, is amended to read as follows:

11 6. A licensed physician may prescribe and order a non-patient specific  
12 regimen ~~[to a registered professional nurse]~~, pursuant to regulations  
13 promulgated by the commissioner, and consistent with the public health  
14 law, ~~[for]~~ to:

- 15 (a) a registered professional nurse for:  
16 (i) administering immunizations[+];  
17 [+b] (ii) the emergency treatment of anaphylaxis[+];  
18 [+e] (iii) administering purified protein derivative (PPD) tests or  
19 other tests to detect or screen for tuberculosis infections[+];  
20 [+d] (iv) administering tests to determine the presence of the human  
21 immunodeficiency virus[+];  
22 [+e] (v) administering tests to determine the presence of the hepati-  
23 tis C virus[+];  
24 [+f] (vi) the urgent or emergency treatment of opioid related over-  
25 dose or suspected opioid related overdose[+];  
26 [+g] (vii) screening of persons at increased risk of syphilis, gonor-  
27 rhea and chlamydia[+];  
28 [+h] (viii) administering tests to determine the presence of COVID-19  
29 or its antibodies or influenza virus[+];  
30 (ix) emergency contraception, to be administered to or dispensed to be  
31 self-administered by the patient, under section sixty-eight hundred  
32 thirty-three of this title; or  
33 (b) A licensed pharmacist, for dispensing emergency contraception, to  
34 be self-administered by the patient, under section sixty-eight hundred  
35 thirty-three of this title.

36 § 4. Subdivision 3 of section 6807 of the education law, as added by  
37 chapter 573 of the laws of 1999, is amended and a new subdivision 4 is  
38 added to read as follows:

39 3. A pharmacist may dispense drugs and devices to a registered profes-  
40 sional nurse, and a registered professional nurse may possess and admin-  
41 ister, drugs and devices, pursuant to a non-patient specific regimen  
42 prescribed or ordered by a licensed physician, licensed midwife or  
43 certified nurse practitioner, pursuant to regulations promulgated by the  
44 commissioner and the public health law.

45 4. A licensed pharmacist may dispense a non-patient specific regimen  
46 of emergency contraception, to be self-administered by the patient,  
47 prescribed or ordered by a licensed physician, certified nurse practi-  
48 tioner, or licensed midwife, under section sixty-eight hundred thirty-  
49 three of this article.

50 § 5. The education law is amended by adding a new section 6833 to read  
51 as follows:

52 § 6833. Emergency contraception; non-patient specific prescription or  
53 order. 1. As used in this section, the following terms shall have the  
54 following meanings, unless the context requires otherwise:

55 (a) "Emergency contraception" means one or more prescription or non-  
56 prescription drugs, used separately or in combination, in a dosage and

manner for preventing pregnancy when used after intercourse, found safe and effective for that use by the United States food and drug administration, and dispensed or administered for that purpose.

(b) "Prescriber" means a licensed physician, certified nurse practitioner or licensed midwife.

2. This section applies to the administering or dispensing of emergency contraception by a registered professional nurse or licensed pharmacist pursuant to a prescription or order for a non-patient specific regimen made by a prescriber under section sixty-five hundred twenty-seven, sixty-nine hundred nine or sixty-nine hundred fifty-one of this title. This section does not apply to administering or dispensing emergency contraception when lawfully done without such a prescription or order.

3. The administering or dispensing of emergency contraception by a registered professional nurse or licensed pharmacist shall be done in accordance with professional standards of practice and in accordance with written procedures and protocols agreed to by the registered professional nurse or licensed pharmacist and the prescriber or a hospital (licensed under article twenty-eight of the public health law) that provides gynecological or family planning services.

4. (a) When emergency contraception is administered or dispensed, the registered professional nurse or licensed pharmacist shall provide to the patient written material that includes: (i) the clinical considerations and recommendations for use of the drug; (ii) the appropriate method for using the drug; (iii) information on the importance of follow-up health care; (iv) information on the health risks and other dangers of unprotected intercourse; and (v) referral information relating to health care and services relating to sexual abuse and domestic violence.

(b) Such written material shall be developed or approved by the commissioner in consultation with the department of health and the American college of obstetricians and gynecologists.

§ 6. Subdivision 4 of section 6909 of the education law, as added by chapter 573 of the laws of 1999, paragraph (a) as amended by chapter 221 of the laws of 2002, paragraph (c) as amended by chapter 464 of the laws of 2015, paragraph (d) as added by chapter 429 of the laws of 2005, paragraph (e) as added by chapter 352 of the laws of 2014, paragraph (f) as added by section 5 of part V of chapter 57 of the laws of 2015, paragraph (g) as added by chapter 502 of the laws of 2016 and paragraph (h) as added by section 7 of part C of chapter 57 of the laws of 2022, is amended to read as follows:

4. A certified nurse practitioner may prescribe and order a non-patient specific regimen [~~to a registered professional nurse~~], pursuant to regulations promulgated by the commissioner, consistent with subdivision three of section six thousand nine hundred two of this article, and consistent with the public health law, [~~for~~] to:

(a) a registered professional nurse for:

(i) administering immunizations[+];

[~~(b)~~] (ii) the emergency treatment of anaphylaxis[+];

[~~(c)~~] (iii) administering purified protein derivative (PPD) tests or other tests to detect or screen for tuberculosis infections[+];

[~~(d)~~] (iv) administering tests to determine the presence of the human immunodeficiency virus[+];

[~~(e)~~] (v) administering tests to determine the presence of the hepatitis C virus[+];

1     ~~(f)~~ (vi) the urgent or emergency treatment of opioid related over-  
2     dose or suspected opioid related overdose~~[-]~~;

3     ~~(g)~~ (vii) screening of persons at increased risk for syphilis,  
4     gonorrhea and chlamydia~~[-]~~;

5     ~~(h)~~ (viii) administering tests to determine the presence of COVID-19  
6     or its antibodies or influenza virus~~[-]~~;

7     (ix) emergency contraception, to be administered to or dispensed to be  
8     self-administered by the patient, under section sixty-eight hundred  
9     thirty-three of this title; or

10    (b) a licensed pharmacist, for dispensing emergency contraception, to  
11    be self-administered by the patient, under section sixty-eight hundred  
12    thirty-three of this title.

13    § 7. Subdivision 5 of section 6909 of the education law, as added by  
14    chapter 573 of the laws of 1999, is amended to read as follows:

15    5. A registered professional nurse may execute a non-patient specific  
16    regimen prescribed or ordered by a licensed physician, licensed midwife  
17    or certified nurse practitioner, pursuant to regulations promulgated by  
18    the commissioner.

19    § 8. Section 6951 of the education law is amended by adding a new  
20    subdivision 4 to read as follows:

21    4. A licensed midwife may prescribe and order a non-patient specific  
22    regimen pursuant to regulations promulgated by the commissioner,  
23    consistent with this section and the public health law, to:

24    (a) a registered professional nurse for emergency contraception, to be  
25    administered to or dispensed to be self-administered by the patient,  
26    under section sixty-eight hundred thirty-three of this title; or

27    (b) a licensed pharmacist, for dispensing emergency contraception, to  
28    be self-administered by the patient, under section sixty-eight hundred  
29    thirty-three of this title.

30    § 9. Section 3216 of the insurance law is amended by adding a new  
31    subsection (n) to read as follows:

32    (n) Any policy under this article that covers contraception when  
33    provided pursuant to a prescription shall cover emergency contraception  
34    as defined in paragraph (a) of subdivision one of section sixty-eight  
35    hundred thirty-three of the education law, when provided pursuant to an  
36    ordinary prescription or order under section sixty-eight hundred thir-  
37    ty-three of the education law and when lawfully provided other than  
38    through a prescription or order.

39    § 10. Section 3221 of the insurance law is amended by adding a new  
40    subsection (u) to read as follows:

41    (u) Any policy under this article that covers contraception when  
42    provided pursuant to a prescription, shall cover emergency contraception  
43    as defined in paragraph (a) of subdivision one of section sixty-eight  
44    hundred thirty-three of the education law, when provided pursuant to an  
45    ordinary prescription or order under section sixty-eight hundred thir-  
46    ty-three of the education law and when lawfully provided other than  
47    through a prescription or order.

48    § 11. Section 4304 of the insurance law is amended by adding a new  
49    subsection (n) to read as follows:

50    (n) Any policy under this article that covers contraception when  
51    provided pursuant to a prescription, shall cover emergency contraception  
52    as defined in paragraph (a) of subdivision one of section sixty-eight  
53    hundred thirty-three of the education law, when provided pursuant to an  
54    ordinary prescription or order under section sixty-eight hundred thir-  
55    ty-three of the education law and when lawfully provided other than  
56    through a prescription or order.

1     § 12. Subdivision 1 of section 207 of the public health law is amended  
2 by adding a new paragraph (r) to read as follows:

3     (r) Emergency contraception, including information about its safety,  
4 efficacy, appropriate use and availability.

5     § 13. This act shall take effect on the one hundred eightieth day  
6 after it shall have become a law; provided, however, that sections nine,  
7 ten and eleven of this act shall apply to policies and contracts issued,  
8 renewed, modified, altered or amended on or after such effective date;  
9 provided, further, that the amendments to paragraph (h) of subdivision 6  
10 of section 6527 of the education law, made by section three of this act  
11 shall not affect the repeal of such paragraph and shall be deemed  
12 repealed therewith; provided, further, that the amendments to paragraph  
13 (h) of subdivision 4 of section 6909 of the education law, made by  
14 section six of this act shall not affect the repeal of such paragraph  
15 and shall be deemed repealed therewith. Effective immediately, the addi-  
16 tion, amendment and/or repeal of any rule or regulation necessary for  
17 the implementation of this act on its effective date are authorized to  
18 be made and completed on or before such effective date.