

STATE OF NEW YORK

3040

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. McDONALD, BLANKENBUSH, TAGUE, WALCZYK,
BRABENEC

-- Multi-Sponsored by -- M. of A. SAYEGH -- read once and referred to
the Committee on Higher Education

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 section 2 of part DD of chapter 57 of the laws of 2018, is
3 amended to read as 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, who has a prac-
10 tice site in the county or adjoining county in which the immunization is
11 administered, for immunizations to prevent influenza, pneumococcal,
12 acute herpes zoster, meningococcal, tetanus, diphtheria, **COVID-19**, or
13 pertussis disease and medications required for emergency treatment of
14 anaphylaxis. If the commissioner of health determines that there is an
15 outbreak of disease, or that there is the imminent threat of an outbreak
16 of disease, then the commissioner of health may issue a non-patient
17 specific regimen applicable statewide.

18 [b.] **(2)** the direct application of an immunizing agent to children
19 between the ages of two and eighteen years of age, whether by injection,
20 ingestion, inhalation or any other means, pursuant to a patient specific
21 order or non-patient specific regimen prescribed or ordered by a physi-

22 cian or certified nurse practitioner, who has a practice site in the
23 county or adjoining county in which the immunization is administered,
24 for immunization to prevent influenza and medications required for emer-

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

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1 gency treatment of anaphylaxis resulting from such immunization. If the
2 commissioner of health determines that there is an outbreak of influen-
3 za, or that there is the imminent threat of an outbreak of influenza,
4 then the commissioner of health may issue a non-patient specific regimen
5 applicable statewide.

6 **b. The injection of medications for the treatment of mental health and**
7 **substance use disorder, as prescribed or ordered by a licensed prescri-**
8 **ber in this state and in accordance with regulations promulgated by the**
9 **commissioner and the department of health in consultation with the board**
10 **of pharmacy, and any other state agencies as necessary, providing that:**

11 **(1) Such administration is conducted pursuant to a valid prescription**
12 **or order that authorizes a pharmacist to administer medications for the**
13 **treatment of mental health and substance use disorder and the pharmacist**
14 **notifies the licensed prescriber that the administration is complete.**

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

17 **(3) Such activity is conducted in accordance with regulations promul-**
18 **gated or adopted by the commissioner and the department of health, in**
19 **consultation with the board of pharmacy, and any other state agencies,**
20 **as necessary, which shall include requirements for the following:**

21 **(i) Training accredited by the accreditation council for pharmacy**
22 **education, that may include educational experiences obtained through**
23 **pharmacy school curricula, or a similar health authority or professional**
24 **body appropriate for the medications being administered and their**
25 **respective patient populations. Such training must be satisfactory to**
26 **the commissioner and the department of health, in consultation with the**
27 **board of pharmacy and any other state agencies, as necessary, which**
28 **shall include, but not be limited to learning modules on techniques for**
29 **administration by injections, indications, precautions, and contraindi-**
30 **cations in the use of agent or agents; record keeping and information;**
31 **and handling emergencies, including anaphylaxis, needle-sticks and**
32 **cardiopulmonary resuscitation.**

33 **(ii) Maintaining continued competency regarding the populations served**
34 **and medications administered.**

35 **(iii) Pre-administration patient consent and education regarding**
36 **common side effects, drug interactions, injection site reactions and**
37 **other information routinely provided to patients upon dispensing.**

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

41 **(v) Record keeping and reporting of such administration by electronic**
42 **transmission or facsimile to the patient's licensed prescriber, and, to**
43 **the extent practicable, make himself or herself available to discuss the**
44 **outcome of such injection, including any adverse reactions, with the**
45 **licensed prescriber.**

46 § 2. Subdivision 22 of section 6802 of the education law, as amended
47 by chapter 110 of the laws of 2020, is amended to read as follows:

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

50 a. **(1)** the direct application of an immunizing agent to adults, wheth-
51 er by injection, ingestion, inhalation or any other means, pursuant to a
52 patient specific order or non-patient specific regimen prescribed or
53 ordered by a physician or certified nurse practitioner, who has a prac-
54 tice site in the county or adjoining county in which the immunization is
55 administered, for immunizations to prevent influenza, pneumococcal,
56 acute herpes zoster, meningococcal, tetanus, diphtheria, COVID-19, or

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1 pertussis disease and medications required for emergency treatment of
2 anaphylaxis. If the commissioner of health determines that there is an
3 outbreak of disease, or that there is the imminent threat of an outbreak
4 of disease, then the commissioner of health may issue a non-patient
5 specific regimen applicable statewide.

6 **[b.] (2)** the direct application of an immunizing agent to children
7 between the ages of two and eighteen years of age, whether by injection,
8 ingestion, inhalation or any other means, pursuant to a patient specific
9 order or non-patient specific regimen prescribed or ordered by a physi-
10 cian or certified nurse practitioner, who has a practice site in the
11 county or adjoining county in which the immunization is administered,
12 for immunization to prevent influenza and medications required for emer-
13 gency treatment of anaphylaxis resulting from such immunization. If the
14 commissioner of health determines that there is an outbreak of influen-
15 za, or that there is the imminent threat of an outbreak of influenza,
16 then the commissioner of health may issue a non-patient specific regimen
17 applicable statewide.

18 **b. The injection of medications for the treatment of mental health and**
19 **substance use disorder, as prescribed or ordered by a licensed prescri-**
20 **ber in this state and in accordance with regulations promulgated by the**
21 **commissioner and the department of health, in consultation with the**
22 **board of pharmacy, and any other state agencies, as necessary, providing**
23 **that:**

24 **(1) Such administration is conducted pursuant to a valid prescription**
25 **or order that authorizes a pharmacist to administer medications for the**

26 treatment of mental health and substance use disorder and the pharmacist
27 notifies the licensed prescriber that the administration is complete.

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

30 (3) Such activity is conducted in accordance with regulations promul-
31 gated or adopted by the commissioner and the department of health, in
32 consultation with the board of pharmacy, and any other state agencies,
33 as necessary, which shall include requirements for the following:

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

46 (ii) Maintaining continued competency regarding the populations served
47 and medications administered.

48 (iii) Pre-administration patient consent and education regarding
49 common side effects, drug interactions, injection site reactions and
50 other information routinely provided to patients upon dispensing.

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

54 (v) Record keeping and reporting of such administration by electronic
55 transmission or facsimile to the patient's licensed prescriber, and, to
56 the extent practicable, make himself or herself available to discuss the

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1 outcome of such injection, including any adverse reactions, with the
2 licensed prescriber.

3 § 3. Subdivision 22 of section 6802 of the education law, as amended
4 by section 2 of part DD of chapter 57 of the laws of 2018, is amended to
5 read as follows:

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

8 a. **(1)** the direct application of an immunizing agent to adults, wheth-
9 er by injection, ingestion, inhalation or any other means, pursuant to a
10 patient specific order or non-patient specific regimen prescribed or
11 ordered by a physician or certified nurse practitioner, who has a prac-
12 tice site in the county or adjoining county in which the immunization is
13 administered, for immunizations to prevent influenza, pneumococcal,

14 acute herpes zoster, meningococcal, tetanus, diphtheria, COVID-19, or
15 pertussis disease and medications required for emergency treatment of
16 anaphylaxis. If the commissioner of health determines that there is an
17 outbreak of disease, or that there is the imminent threat of an outbreak
18 of disease, then the commissioner of health may issue a non-patient
19 specific regimen applicable statewide.

20 **[b.] (2)** the direct application of an immunizing agent to children
21 between the ages of two and eighteen years of age, whether by injection,
22 ingestion, inhalation or any other means, pursuant to a patient specific
23 order or non-patient specific regimen prescribed or ordered by a physi-
24 cian or certified nurse practitioner, who has a practice site in the
25 county or adjoining county in which the immunization is administered,
26 for immunization to prevent influenza and medications required for emer-
27 gency treatment of anaphylaxis resulting from such immunization. If the
28 commissioner of health determines that there is an outbreak of influen-
29 za, or that there is the imminent threat of an outbreak of influenza,
30 then the commissioner of health may issue a non-patient specific regimen
31 applicable statewide.

32 **b. The injection of medications for the treatment of mental health and**
33 **substance use disorders, as prescribed or ordered by a licensed prescri-**
34 **ber in this state and in accordance with regulations promulgated by the**
35 **commissioner and the department of health, in consultation with the**
36 **board of pharmacy, and any other state agencies, as necessary, providing**
37 **that:**

38 **(1) Such administration is conducted pursuant to a valid prescription**
39 **or order that authorizes a pharmacist to administer medications for the**
40 **treatment of mental health and substance use disorder and the pharmacist**
41 **notifies the licensed prescriber that the administration is complete.**

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

44 **(3) Such activity is conducted in accordance with regulations promul-**
45 **gated or adopted by the commissioner and the department of health, in**
46 **consultation with the board of pharmacy, and any other state agencies,**
47 **as necessary, which shall include requirements for the following:**

48 **(i) Training accredited by the accreditation council for pharmacy**
49 **education, that may include educational experiences obtained through**
50 **pharmacy school curricula, or a similar health authority or professional**
51 **body appropriate for the medications being administered and their**
52 **respective patient populations. Such training must be satisfactory to**
53 **the commissioner and the department of health, in consultation with the**
54 **board of pharmacy and any other state agencies, as necessary, which**
55 **shall include, but not be limited to learning modules on techniques for**
56 **administration by injections, indications, precautions, and contraindi-**

1 **cations in the use of agent or agents; record keeping and information;**

- 2 and handling emergencies, including anaphylaxis, needle-sticks and
3 cardiopulmonary resuscitation.
4 (ii) Maintaining continued competency regarding the populations served
5 and medications administered.
6 (iii) Pre-administration patient consent and education regarding
7 common side effects, drug interactions, injection site reactions and
8 other information routinely provided to patients upon dispensing.
9 (iv) When administering an injection in a pharmacy, the pharmacist
10 shall provide an area for the injection that provides for the patient's
11 privacy.
12 (v) Record keeping and reporting of such administration by electronic
13 transmission or facsimile to the patient's licensed prescriber, and, to
14 the extent practicable, make himself or herself available to discuss the
15 outcome of such injection, including any adverse reactions, with the
16 licensed prescriber.

17 § 4. Section 6801 of the education law is amended by adding a new
18 subdivision 6 to read as follows:

19 6. A licensed pharmacist may administer injectable medications for the
20 treatment of mental health and substance use disorder, as prescribed or
21 ordered by a licensed prescriber in this state and in accordance with
22 regulations promulgated by the commissioner in consultation with the
23 board of pharmacy, and any other state agencies, as necessary.

24 § 5. This act shall take effect on the one hundred eightieth day after
25 it shall have become a law; provided, however, that:

26 a. the amendments to subdivision 22 of section 6802 of the education
27 law made by section one of this act shall be subject to the expiration
28 and reversion of such subdivision pursuant to section 4 of chapter 110
29 of the laws of 2020, as amended, when upon such date the provisions of
30 section two of this act shall take effect; provided, however, if the
31 provisions of section two of this act shall not have taken effect prior
32 to the repeal of such subdivision pursuant to section 8 of chapter 563
33 of the laws of 2008, as amended, such amendments shall not affect the
34 repeal of such subdivision and shall be deemed to repeal therewith;

35 b. provided, further, the amendments to subdivision 22 of section 6802
36 of the education law made by section two of this act shall take effect
37 on the same date and in the same manner as section 2 of chapter 110 of
38 the laws of 2020, takes effect; provided, however, if section 2 of chap-
39 ter 110 of the laws of 2020 takes effect prior to the effective date of
40 this act, section two of this section shall not take effect until the
41 one hundred eightieth day after it shall have become a law; provided
42 that such amendments made by section two of this act shall be subject to
43 the expiration and reversion of such subdivision pursuant to section 4
44 of chapter 110 of the laws of 2020, as amended, when upon such date the
45 provisions of section three of this act shall take effect;

46 c. provided, further that the amendments to subdivision 22 of section
47 6802 of the education law made by section three of this act shall not

48 affect the repeal of such subdivision and shall be deemed to repeal
49 therewith; and

50 d. provided, further, the amendments to section 6801 of the education
51 law made by section four of this act shall not affect the expiration of
52 such section and shall be deemed repealed therewith. Effective imme-
53 diately, the addition, amendment and/or repeal of any rule or regulation
54 necessary for the implementation of this act on its effective date are
55 authorized to be made and completed by the commissioner of education on
56 or before such date.