

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6527, 6801, 6806, 6902 and 6909 of the Education Law and Chapter 502 of the Laws of 2016

1. Section 60.12 of the Regulations of the Commissioner of Education is added, to read as follows:

60.12 Orders to dispense drugs to prevent human immunodeficiency virus (HIV) infection.

(1) As used in this section, HIV post-exposure prophylaxis drugs means drugs approved by the Federal Food and Drug Administration to prevent and/or treat HIV infection.

(2) A licensed physician may issue a written non-patient specific order and protocol for a licensed pharmacist to dispense up to a seven day supply of HIV post-exposure prophylaxis drugs to prevent HIV infection in persons who have potentially been exposed to HIV, provided that the requirements of this section are met.

(3) Order and protocol.

(i) The non-patient specific order shall include, at a minimum, the following:

(a) the name, license number and signature of the licensed physician who issues the non-patient specific order and protocol;

(b) the name and dose of the specific drug(s) to be dispensed;

(c) a protocol for dispensing the drugs(s) or a specific reference to a separate written protocol for dispensing the drug(s), which shall meet the requirements of subparagraph (ii) of this paragraph;

(d) the period of time that the order is effective, including the beginning and ending dates;

(e) a description of the group(s) of persons who may receive the dispensed drugs, provided that the group(s) of persons are located in New York State; and

(f) the name and license number of each licensed pharmacist authorized to execute the non-patient specific order and protocol or the name and address of the New York State licensed pharmacy that employs or contracts with the licensed pharmacist(s) to execute the non-patient specific order and protocol.

(ii) The written protocol, incorporated into the order prescribed in subparagraph (i) of this paragraph, shall, at a minimum, require the licensed pharmacist to:

(a) screen each potential recipient, pursuant to criteria in the protocol, for conditions that would qualify or preclude the potential recipient from receiving the dispensed drugs;

(b) offer counseling regarding the need for follow-up care pursuant to criteria in the protocol and provide the counseling if the recipient consents;

(c) offer or provide in writing, the names and addresses of hospitals or other health providers that offer follow-up care, which shall be identified in the protocol;

and

(d) document the pharmacy services provided, including the offer or provision of counseling and referral information described in this subparagraph, and maintain the documentation in accordance with section 29.2(a)(3), section 63.6(b)(7) and section 63.6(b)(8) of this Title.

(4) A licensed physician may issue a written patient specific order or prescription to a licensed pharmacist to dispense HIV post-exposure prophylaxis drugs pursuant to applicable law.

2. Section 63.13 of the Regulations of the Commissioner of Education is added, to read as follows:

63.13 Non-patient specific orders and protocols.

Orders to dispense drugs to prevent human immunodeficiency virus (HIV) infection. A licensed pharmacist may, pursuant to a non-patient specific order and protocol issued by a licensed physician in accordance with section 60.12 of this Title or by a certified nurse practitioner in accordance with subdivision (h) of section 64.5 of this Title, dispense up to a seven day supply of HIV post-exposure prophylaxis drugs for the purpose of preventing HIV infection in persons who have potentially been exposed to HIV.

3. Subdivision (h) of section 64.5 of the Regulations of the Commissioner of Education is added, to read as follows:

(h) Orders to dispense drugs to prevent human immunodeficiency virus (HIV) infection.

(1) As used in this subdivision, HIV post-exposure prophylaxis drugs means drugs approved by the Federal Food and Drug Administration to prevent and/or treat HIV infection.

(2) A certified nurse practitioner may issue a written non-patient specific order and protocol for a licensed pharmacist to dispense up to a seven day supply of HIV post-exposure prophylaxis drugs to prevent HIV infection in persons who have

potentially been exposed to HIV, provided that the requirements of this subdivision are met.

(3) Order and protocol.

(i) The non-patient specific order shall include, at a minimum, the following:

(a) the name, license number and signature of the certified nurse practitioner who issues the non-patient specific order and protocol;

(b) the name and dose of the specific drug(s) to be dispensed;

(c) a protocol for dispensing the drugs(s) or a specific reference to a separate written protocol for dispensing the drug(s), which shall meet the requirements of subparagraph (ii) of this paragraph;

(d) the period of time that the order is effective, including the beginning and ending dates;

(e) a description of the group(s) of persons who may receive the dispensed drugs, provided that the group(s) of persons are located in New York State; and

(f) the name and license number of each licensed pharmacist authorized to execute the non-patient specific order and protocol or the name and address of the New York State licensed pharmacy that employs or contracts with the licensed pharmacist(s) to execute the non-patient specific order and protocol.

(ii) The written protocol, incorporated into the order prescribed in subparagraph (i) of this paragraph, shall, at a minimum, require the licensed pharmacist to:

(a) screen each potential recipient, pursuant to criteria in the protocol, for conditions that would qualify or preclude the potential recipient from receiving the dispensed drugs;

(b) offer counseling regarding the need for follow-up care pursuant to criteria in the protocol and provide the counseling if the recipient consents;

(c) offer or provide in writing, the names and addresses of hospitals or other health providers that offer follow-up care, which shall be identified in the protocol;
and

(d) document the pharmacy services provided, including the offer or provision of counseling and referral information described in this subparagraph, and maintain the documentation in accordance with section 29.2(a)(3), section 63.6(b)(7) and section 63.6(b)(8) of this Title.

(4) A certified nurse practitioner may issue a written patient specific order or prescription to a licensed pharmacist to dispense HIV post-exposure prophylaxis drugs pursuant to applicable law.