

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6527, 6801, 6802, 6902 and 6909 of the Education Law and Part DD of Chapter 57 of the Laws of 2018.

1. Paragraph (2) of subdivision (b) of section 63.9 of the Regulations of the Commissioner of Education is amended, as follows:

(b) Immunizations.

(2) Authorized immunization agents. A certified pharmacist who meets the requirements of this section shall be authorized to administer to [patients 18 years of age or older, immunizing agents to prevent influenza, pneumococcal, acute herpes zoster, meningococcal, tetanus, diphtheria or pertussis disease, pursuant to a patient specific order or a non-patient specific order.]:

(i) patients 18 years of age or older, immunizing agents to prevent influenza, pneumococcal, acute herpes zoster, meningococcal, tetanus, diphtheria or pertussis disease, pursuant to a patient specific order or a non-patient specific order; and

(ii) patients between the ages of two and eighteen years of age, immunizing agents to prevent influenza, pursuant to a patient specific order or a non-patient specific order.

2. Paragraph (4) of subdivision (b) of section 63.9 of the Regulations of the Commissioner of Education is amended, as follows:

(4) Standards, procedures and reporting requirements for the administration of immunization agents. Each certified pharmacist shall comply with the following requirements when administering an immunization agent pursuant to either a patient specific order or a non-patient specific order and protocol:

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(vi) a certified pharmacist, when administering an immunization in a pharmacy, shall provide for an area that provides for the patient's privacy, such area shall include:

(a) a clearly visible posting of the most current "Recommended Adult Immunization Schedule" published by the advisory committee for immunization practices (ACIP); and [the certified pharmacist shall provide a copy of the appropriate vaccine information statement to the recipient, or the person legally responsible for the recipient when the patient is incapable of consenting to the immunization, before administering the immunization;]

(b) education materials on influenza vaccines for children as determined by the Commissioner and the Commissioner of the Department of Health.

(vii) a certified pharmacist shall provide a copy of the appropriate vaccine information statement to the recipient, or the person legally responsible for the recipient when the patient is incapable of consenting to the immunization, before administering the immunization;

(viii) a certified pharmacist shall provide to each recipient or other person legally responsible when the recipient is incapable of consenting to immunization, a signed certificate of immunization with the recipient's name, date of immunization, address of administration, administering pharmacist, immunization agent, manufacturer and lot

number. With the consent of the recipient or a person legally responsible when the recipient is incapable of consenting, the certified pharmacist shall communicate this information to the recipient's primary health care practitioner, if one exists, within one month of the administration of such immunization, and such communication may be transmitted in electronic format;

[(viii)] (ix) a certified pharmacist shall report any adverse outcomes as may be required by Federal law on the vaccine adverse event reporting system form of the Centers for Disease Control of the U.S. Department of Health and Human Services, or on the successor form;

[(ix)] (x) a certified pharmacist shall ensure that a record of all persons immunized including the recipient's name, date, address of administration, administering pharmacist, immunization agent, manufacturer and lot number is recorded and maintained in accordance with section 29.2(a)(3) of this Title;

[(x)] (xi) to the extent required by the Public Health Law, the Education Law and/or the New York City Health Code, a certified pharmacist shall report the administration of any immunizations to the New York State Department of Health and/or the New York City Department of Health and Mental Hygiene, in a manner required by the Commissioner of Health of the State of New York or of the City of New York, as applicable. Such report shall not include any individually identifiable health information unless:

(a) such information is otherwise required by law; or

(b) the recipient has consented to the disclosure of such information, in which case the information may be included to the extent permitted by law; and

[(xi)] (xii) each certified pharmacist shall provide information to recipients on the importance of having a primary health care practitioner, in a form or format developed by the Commissioner of Health;

[(xii)] (xiii) each certified pharmacist shall, prior to administering the immunization or immunizations, inform the recipient, or the person legally responsible for the recipient when the patient is incapable of consenting to the immunization, of the total cost of the immunization or immunizations, subtracting any health insurance subsidization, if applicable. In the case where the immunization is not covered, the pharmacist shall inform the recipient, or other person legally responsible for the recipient when the patient is incapable of consenting to the immunization, that the immunization may be covered when administered by a primary care physician or health care practitioner; and

[(xiii)] (xiv) Reporting of administration of immunizing agent;

(a) [For administrations prior to December 27, 2015, when a licensed pharmacist administers an immunizing agent, he or she shall report such administration to the patient's attending primary health care practitioner or practitioners, if any, unless the patient is unable to communicate the identity of his or her primary health care practitioner;

(b) For administrations on or after December 27, 2015,] when a licensed pharmacist administers an immunizing agent, he or she shall report such administration by electronic transmission or facsimile to the patient's attending primary health care practitioner or practitioners, if any, unless the patient is unable to communicate the identity of his or her primary health care practitioner, and, to the extent practicable, make himself or herself available to discuss the outcome of such immunization,

including any adverse reactions, with the attending primary health care practitioner, or to the statewide immunization registry or the citywide immunization registry, as established pursuant to sections 2168 of the Public Health Law and 11.07 of the New York City Health Code, respectively.

3. Paragraph (1) of subdivision (c) of section 63.9 of the Regulations of the Commissioner of Education is amended, as follows:

(c) Anaphylaxis treatment agents.

(1) Pursuant to sections 6801 and 6802 of the Education Law, each pharmacist who is issued a certificate of administration pursuant to this section shall be authorized to administer medications for the emergency treatment of anaphylaxis to patients [18] 2 years of age or older.

4. Subparagraph (i) of paragraph (3) of subdivision (c) of section 63.9 of the Regulations of the Commissioner of Education is amended, as follows:

(3) Non-patient specific order and protocol.

(i) The certified pharmacist shall either maintain or ensure the maintenance of a copy of the non-patient specific order and protocol prescribed by a licensed physician or a certified nurse practitioner that authorizes such pharmacist to administer medications for the emergency treatment of anaphylaxis to [adults] patients 2 years of age or older, in accordance with the requirements of paragraph (1) of this subdivision. The order prescribed in subparagraph (ii) of this paragraph shall incorporate a protocol that meets the requirements of subparagraph (iii) of this paragraph. Such order and protocol shall be considered a record of the patient who receives the anaphylaxis treatment agent and

maintained as a record for the patient who receives the anaphylaxis treatment agent. A record of each patient shall be maintained in either:

(a) . . .

(b) . . .