



**TO:** The Professional Practice Committee

**FROM:** David H. Hamilton *David H. Hamilton*

**SUBJECT:** Proposed Amendment of Section 64.7 of the Regulations of the Commissioner of Education Relating to the Execution by Registered Professional Nurses of Non-Patient Specific Orders to Provide Certain Emergency Medical Services and Administer Pregnancy Tests

**DATE:** January 30, 2025

**AUTHORIZATION(S):** *Donna* *Betty*

## SUMMARY

### Issue for Decision

Should the Board of Regents adopt the proposed amendment of section 64.7 of the Regulations of the Commissioner of Education relating to the execution by registered professional nurses of non-patient specific orders to provide certain emergency medical services and administer pregnancy tests?

### Reason for Consideration

Required by State statute (Chapter 520 of the Laws of 2024) and a review of policy.

### Proposed Handling

The proposed amendment will be presented to the Professional Practice Committee for discussion and recommendation to the Full Board for adoption as an emergency action at the February 2025 Regents meeting. A copy of the proposed rule (Attachment A) and a statement of facts and circumstances justifying the emergency action (Attachment B) are attached.

### Procedural History

A Notice of Emergency Adoption and Proposed Rule Making will be published in the State Register on February 26, 2025 for a 60-day public comment period. Supporting materials for the proposed rule are available upon request from the Secretary to the Board of Regents.

## **Background Information**

Currently, registered professional nurses (RNs) can execute non-patient specific orders and protocols, ordered or prescribed by licensed physicians (physicians) or certified nurse practitioners (NPs), but not physician assistants (PAs), to provide certain medical services, including emergency services and administering pregnancy tests.

Chapter 520 of the Laws of 2024 (Chapter 520), effective February 22, 2025, addresses this issue by authorizing RNs to execute non-patient specific orders and protocols, ordered or prescribed by PAs to provide the following medical services: (1) administering immunizations; (2) emergency treatment of anaphylaxis; (3) administering purified protein derived (PPD) tests or other tests to detect or screen for tuberculosis infections; (4) administering tests to determine the presence of the human immunodeficiency virus (HIV); (5) administering tests to determine the presence of the hepatitis C virus; (6) urgent or emergency treatment of opioid related overdose or suspected opioid related overdose; (7) screening of persons at increased risk of syphilis, gonorrhea, and chlamydia; (8) administering electrocardiogram tests to detect signs and symptoms of acute coronary syndrome; (9) administering point-of-care blood glucose tests to evaluate acute mental status changes in persons with suspected hypoglycemia; (10) administering tests and intravenous lines to persons that meet severe sepsis and septic shock criteria; (11) administering tests to determine pregnancy; and (12) administering tests to determine the presence of COVID-19 or its antibodies or influenza virus. These medical services, including emergency medical services, as recognized in Chapter 520, do not supplant the authority of the attending practitioner, the hospital, the Public Health Law or regulations of the Department of Health.

## **Proposed Amendment**

The proposed amendment implements Chapter 520 by amending section 64.7 of the Commissioner's regulations to authorize PAs to prescribe and order a non-patient specific regimen to RNs to provide the above-referenced medical services.

The proposed amendment also:

- changes all the references to "him or her" in section 64.7 of the Commissioner's regulations to "them;"
- corrects a citation error in section 64.7(d)(1) of the Commissioner's regulations; and
- adds cross-citations to section 64.7(i)(1)(iii) of the Commissioner's regulations to assist stakeholders in finding the definition and requirements for non-patient specific orders and protocols prescribed or ordered by a physician, PA or NP for providing emergency medical care for patients.

### **Related Regents Items**

Not applicable.

### **Recommendation**

It is recommended that the Board of Regents take the following action:

VOTED: That section 64.7 of the Regulations of the Commissioner of Education be amended, as submitted, effective February 22, 2025, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the public health and general welfare to timely conform the Commissioner's regulations to implement the requirements of Chapter 520 of the Laws of 2024, which becomes effective February 22, 2025.

### **Timetable for Implementation**

If adopted as an emergency rule at the February 2025 Regents meeting, the emergency rule will become effective on February 22, 2025. It is anticipated that the proposed amendment will be presented to the Board of Regents for permanent adoption at the June 2025 meeting, after publication in the State Register and the expiration of the 60-day public comment period required under the State Administrative Procedure. Because the action will expire before the June 2025 meeting, it is anticipated that an additional emergency action will be presented for adoption at the May 2025 Regents meeting. If adopted at the June 2025 Regents meeting, the proposed rule will become effective June 25, 2025

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6527, 6902, and 6542 of the Education Law and Chapter 520 of the Laws of 2024.

1. The title of Section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

64.7 Provision of certain medical services pursuant to non-patient specific orders and protocols

2. Subdivision (a) of section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) Immunizations.

(1) ...

(i) ...

(a) ...

(b) ...

(c) ...

(d) ...

(e) ...

(ii) ...

(2) A registered professional nurse may administer immunizing agent(s) pursuant to a written non-patient specific order and protocol prescribed or ordered by a licensed physician, licensed physician assistant or a certified nurse practitioner, provided that the requirements of this subdivision are met.

(i) ...

(ii) ...

(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, licensed physician assistant or certified nurse practitioner who orders or prescribes the non-patient specific order and protocol;

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(ii) The written protocol, incorporated into the order prescribed in subparagraph (i) of this paragraph, shall, at a minimum, require the registered professional nurse(s) to ensure that:

(a) each potential recipient is assessed, pursuant to criteria in the protocol, for conditions that would qualify or preclude [him or her] them from receiving the ordered immunizing agent(s);

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(g)...

3. Subdivision (b) of section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) Anaphylaxis treatment agents.

(1) Pursuant to section 6909(5) the Education Law, a registered professional nurse shall be authorized to administer anaphylaxis treatment agents, including but not limited to epinephrine, for the emergency treatment of anaphylaxis, pursuant to a non-patient specific order and protocol prescribed and ordered by a licensed physician, licensed physician assistant or a certified nurse practitioner, provided the order and protocol meets the requirements of paragraph (2) this subdivision.

(2) Order and protocol.

(i) The registered professional nurse shall either maintain or ensure the maintenance of a copy of the non-patient specific order and protocol prescribed by a licensed physician, licensed physician assistant or a certified nurse practitioner which authorizes a registered professional nurse to administer anaphylaxis treatment agents, including but not limited to epinephrine, for the emergency treatment of anaphylaxis, 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 period of time prescribed in section 29.2(a)(3) of this Title.

(ii) ...

(a) ...

(b) ...

(c) ...

(d) ...

(e) the name, license number, and signature of the licensed physician, licensed physician assistant or certified nurse practitioner who has issued the order.

(iii) ...

(a) ...

(b) ...

(c) ...

(4) Subdivision (c) of section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(c) Tuberculosis tests.

(1) ...

(2) A registered professional nurse may administer tuberculosis tests pursuant to a written non-patient specific order and protocol prescribed or ordered by a licensed physician, licensed physician assistant or a certified nurse practitioner, 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 licensed physician, licensed physician assistant or certified nurse practitioner who orders or prescribes the non-patient specific order and protocol;

(b) ...

(c) ...

(d) ...

(f) ...

(ii) The written protocol, incorporated into the order prescribed in subparagraph (i) of this paragraph, shall, at a minimum, require the registered professional nurse(s) to ensure that:

(a) each potential recipient is assessed, pursuant to criteria in the protocol, for conditions that would qualify or preclude [him or her] them from receiving the ordered tuberculosis tests;

(b) ...

(c) ...

(d) ...

(e) ...

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

5. Subdivision (d) section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(d) Human Immunodeficiency Virus (HIV) tests.

(1) As used in this subdivision, human immunodeficiency virus (HIV) test means HIV-related test as defined in section 63.1 of [this] Title 10 of the New York Codes, Rules, and Regulations.

(2) Pursuant to section 6909(5) of the Education Law, a registered professional nurse shall be authorized to execute an order to administer HIV tests, pursuant to a



non-patient specific order and protocol prescribed and ordered by a licensed physician, licensed physician assistant or a certified nurse practitioner, provided the order and protocol meet the requirements of paragraph (3) of this subdivision. The following provisions apply to the administration of an HIV test pursuant to a non-patient specific standing order when such test is administered by a registered professional nurse.

(3) Order and protocol.

(i) The registered professional nurse shall either maintain or ensure the maintenance of a copy of the non-patient specific order and protocol prescribed by a licensed physician, licensed physician assistant or a certified nurse practitioner, which authorizes a registered professional nurse to execute the order to administer an HIV test, in accordance with the requirements of paragraph (2) 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 has received an HIV test and be maintained as a record for the period of time prescribed in section 29.2(a)(3) of this Title.

(ii) ...

(a) ...

(b) ...

(c) ...

(d) ...

(e) the name, license number, and signature of the licensed physician, licensed physician assistant or certified nurse practitioner that has issued the order.

(iii) The protocol, incorporated into the order prescribed in subparagraph (ii) of this paragraph, shall require the registered professional nurse to meet the following requirements:

(a) ...

(b) ...

(c) ...

(d) a physician, licensed physician assistant or nurse practitioner who issues a non-patient specific order for HIV testing shall retain responsibility for communication of a confirmatory, positive HIV test result to the recipient, or when the recipient lacks capacity to consent, a person authorized pursuant to law to consent to health care for such individual. A registered professional nurse is not authorized to deliver a final confirmatory HIV positive test result through a non-patient specific order. A registered professional nurse may only deliver a confirmatory, positive HIV test result through a patient specific order as directed by the treating physician, licensed physician assistant or nurse practitioner;

(e) ...

(f) ...

(g) ...

6. Subdivision (e) of section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(e) Opioid related overdose treatment.

(1) ...

(2) A registered professional nurse may administer opioid related overdose treatment for the urgent or emergency treatment of opioid related overdose or

suspected opioid related overdose pursuant to a written non-patient specific order and protocol prescribed or ordered by a licensed physician, licensed physician assistant or a certified nurse practitioner, 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 licensed physician, licensed physician assistant or certified nurse practitioner who orders or prescribes the non-patient specific order and protocol;

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(ii) The written protocol, incorporated into the order prescribed in subparagraph (i) of this paragraph, shall, at a minimum, include instructions for administering the opioid related overdose treatment and require the registered professional nurse to ensure that:

(a) each potential recipient is assessed, pursuant to criteria in the protocol, for conditions that would qualify or preclude [him or her] them from receiving the ordered opioid related overdose treatment;

(b) ...

(c) ...

(d) ...

7. Subdivision (f) of section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(f) Hepatitis C tests.

(1) ...

(2) A registered professional nurse may administer hepatitis C tests pursuant to a written non-patient specific order and protocol prescribed or ordered by a licensed physician, licensed physician assistant or a certified nurse practitioner, 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 licensed physician, licensed physician assistant or certified nurse practitioner who orders or prescribes the non-patient specific order and protocol;

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(ii) The written protocol, incorporated into the order prescribed in subparagraph (i) of this paragraph, shall, at a minimum, require the registered professional nurse(s) to ensure that:

(a) each potential recipient is assessed, pursuant to criteria in the protocol, for conditions that would qualify or preclude [him or her] them from receiving the ordered hepatitis C tests;

(b) ...

(c) confirmatory, positive hepatitis C test results are not disclosed to the test recipient or the recipient's authorized representative by the registered professional nurse without a patient specific order from a licensed physician, licensed physician assistant or certified nurse practitioner; and

(d) ...

8. Subdivision (g) of section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(g) Screening for syphilis, gonorrhea and/or chlamydia infections.

(1) ...

(2) A registered professional nurse may screen persons at increased risk for syphilis, gonorrhea and/or chlamydia pursuant to a written non-patient specific order and protocol prescribed or ordered by a licensed physician, licensed physician assistant or a certified nurse practitioner, 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 licensed physician, licensed physician assistant or certified nurse practitioner who orders or prescribes the non-patient specific order and protocol;

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(ii) The written protocol, incorporated into the order prescribed in subparagraph (i) of this paragraph, shall, at a minimum, include instructions for screening for syphilis, gonorrhea and/or chlamydia infections and require the registered professional nurse(s) to ensure that:

(a) each potential recipient is assessed, pursuant to criteria in the protocol, for conditions that would qualify or preclude [him or her] them from receiving the ordered screening tests for syphilis, gonorrhea and/or chlamydia infections;

(b) ...

(c) ...

(d) ...

9. Subdivision (h) of section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(h) COVID-19 tests and influenza tests.

(1) As used in this subdivision:

(i) ...

(ii) ...

(2) registered professional nurse may administer a COVID-19 test or an influenza test pursuant to a written non-patient specific order and protocol prescribed or ordered by a licensed physician, licensed physician assistant or a certified nurse practitioner, 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 licensed physician, licensed physician assistant or certified nurse practitioner who orders or prescribes the non-patient specific order and protocol;

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(ii) The written protocol, incorporated into the order prescribed in subparagraph (i) of this paragraph, shall, at a minimum, require the registered professional nurse(s) to ensure that:

(a) each potential recipient is assessed, pursuant to criteria in the protocol, for conditions that would qualify or preclude [him or her] them from receiving the ordered test;

(b) ...

(c) ...

(d) ...

9. Subdivision (i) of section 64.7 of the Regulations of the Commissioner of Education is amended read as follows:

(i) Emergency medical care.

(1) As used in this subdivision:

(i) ...

(ii) Standing order means a written non-patient specific order and protocol prescribed or ordered by a licensed physician, licensed physician assistant for tests

defined herein in sections (64.7)(i)(1)(iii)(v)(b) and (64.7)(i)(1)(iii)(v)(c) or certified nurse practitioner for providing emergency medical care to patients.

(iii) ...

(v) ...

(a) ...

(b) ...

(c) ...

(d) ...

(2) ...

(i) ...

(ii) ...

(3) Standing order.

(i) The standing order shall include, at a minimum:

(a) the name, license number and signature of the licensed physician, licensed physician assistant or certified nurse practitioner who orders or prescribes the standing order;

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(g) ...

(ii) ...

(a) ...



(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(iii) ...

(iv) ...

10. Subdivision (j) of section 64.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(j) Pregnancy tests.

(1) ...

(2) A registered professional nurse may administer a pregnancy test pursuant to a non-patient specific order and protocol prescribed or ordered by a licensed physician, licensed physician assistant or a certified nurse practitioner, provided that the requirements of this subdivision are met.

(3) Order and protocol.

(i) The order shall include, at a minimum:

(a) the name, license number and signature of the licensed physician, licensed physician assistant or certified nurse practitioner who orders or prescribes the non-patient specific order and protocol;

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(ii) ...

(a) ...

(b) ...

(c) ...

(d) ...

STATEMENT OF FACTS AND CIRCUMSTANCES  
WHICH NECESSITATE EMERGENCY ACTION

The proposed rule is necessary to implement Chapter 520 of the Laws of 2024, which becomes effective February 22, 2025, and authorizes registered professional nurses (RNs) to execute non-patient specific orders and protocols, ordered or prescribed by licensed physician assistants (PAs) to provide the following medical services: (1) administering immunizations; (2) emergency treatment of anaphylaxis; (3) administering purified protein derived (PPD) tests or other tests to detect or screen for tuberculosis infections; (4) administering tests to determine the presence of the human immunodeficiency virus (HIV); (5) administering tests to determine the presence of the hepatitis C virus; (6) urgent or emergency treatment of opioid related overdose or suspected opioid related overdose; (7) screening of persons at increased risk of syphilis, gonorrhea, and chlamydia; (8) administering electrocardiogram tests to detect signs and symptoms of acute coronary syndrome; (9) administering point-of-care blood glucose tests to evaluate acute mental status changes in persons with suspected hypoglycemia; (10) administering tests and intravenous lines to persons that meet severe sepsis and septic shock criteria; (11) administering tests to determine pregnancy; and (12) administering tests to determine the presence of COVID-19 or its antibodies or influenza virus.

The proposed amendment implements Chapter 520 by amending section 64.7 of the Commissioner's regulations to authorize PAs to prescribe and order a non-patient specific regimen to RNs to provide the above referenced medical services.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for permanent adoption, after the expiration of the required 60-day comment period as provided for in sections 201(1) and 201(5) of the State Administrative Procedure Act (SAPA), would be the June 2025 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the June meeting, would be June 25, 2025, the date the Notice of Adoption would be published in the State Register. Therefore, emergency action is necessary at the February 2025 meeting for the preservation of the public health and general welfare to timely implement the provisions of Chapter 520, which becomes effective February 22, 2025.

It is anticipated that the proposed rule will be presented for permanent adoption at the June 2025 Regents meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for State agency rule makings. However, since the emergency action will expire before the June Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the May 2025 Regents meeting.