

S T A T E O F N E W Y O R K

3203--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. BENJAMIN, FIELDS, JEFFRIES, P. RIVERA, ROBINSON, CALHOUN, PEOPLES-STOKES, TITUS, CUSICK, CHRISTENSEN, FITZPATRICK, BARRON, COOK, REILLY, RAIA, ESPAILLAT, KOON -- Multi-Sponsored by -- M. of A. BACALLES, BARCLAY, BOYLAND, CONTE, CROUCH, DELMONTE, DUPREY, GORDON, LUPARDO, MAYERSOHN, J. MILLER, PHEFFER, QUINN -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to encouraging immunization against human papillomavirus (HPV)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The section heading and subdivisions 2, 5 and 6 of section
2 2164 of the public health law, as amended by chapter 189 of the laws of
3 2006, subdivision 2 as separately amended by chapter 506 of the laws of
4 2006, are amended to read as follows:
5 Definitions; immunization against poliomyelitis, mumps, measles,
6 diphtheria, rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV), Haemophilus
7 influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and
8 hepatitis B.
9 2. a. Every person in parental relation to a child in this state shall
10 have administered to such child an adequate dose or doses of an immuniz-
11 ing agent against poliomyelitis, mumps, measles, diphtheria, rubella,
12 varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus,
13 pneumococcal disease, and hepatitis B, which meets the standards
14 approved by the United States public health service for such biological
15 products, and which is approved by the department under such conditions
16 as may be specified by the public health council. EVERY PERSON IN
17 PARENTAL RELATION TO A CHILD IN THIS STATE SHALL BE ENCOURAGED, THROUGH
18 THE PROVISION OF WRITTEN EDUCATIONAL MATERIALS AND CONSULTATION, TO HAVE

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

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ADMINISTERED TO SUCH CHILD AN ADEQUATE DOSE OR DOSES OF AN IMMUNIZING AGENT AGAINST HUMAN PAPILLOMAVIRUS (HPV) WHICH MEETS THE STANDARDS APPROVED BY THE UNITED STATES PUBLIC HEALTH SERVICE FOR SUCH BIOLOGICAL PRODUCTS, AND WHICH IS APPROVED BY THE DEPARTMENT UNDER SUCH CONDITIONS AS MAY BE SPECIFIED BY THE PUBLIC HEALTH COUNCIL.

b. Every person in parental relation to a child in this state born on or after January first, nineteen hundred ninety-four and entering sixth grade or a comparable age level special education program with an unassigned grade on or after September first, two thousand seven, shall have administered to such child a booster immunization containing diphtheria and tetanus toxoids, and an acellular pertussis vaccine, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council. EVERY PERSON IN PARENTAL RELATION TO A CHILD IN THIS STATE BORN ON OR AFTER JANUARY FIRST, NINETEEN HUNDRED NINETY-FOUR AND ENTERING SIXTH GRADE OR A COMPARABLE AGE LEVEL SPECIAL EDUCATION PROGRAM WITH AN UNASSIGNED GRADE ON OR AFTER SEPTEMBER FIRST, TWO THOUSAND TEN, SHALL BE ENCOURAGED, THROUGH THE PROVISION OF WRITTEN EDUCATIONAL MATERIALS AND CONSULTATION, TO HAVE ADMINISTERED TO SUCH CHILD A BOOSTER IMMUNIZATION, WHERE APPLICABLE, AGAINST HUMAN PAPILLOMAVIRUS (HPV) WHICH MEETS THE STANDARDS APPROVED BY THE UNITED STATES PUBLIC HEALTH SERVICE FOR SUCH BIOLOGICAL PRODUCTS, AND WHICH IS APPROVED BY THE DEPARTMENT UNDER SUCH CONDITIONS AS MAY BE SPECIFIED BY THE PUBLIC HEALTH COUNCIL.

5. The health practitioner who administers such immunizing agent against poliomyelitis, mumps, measles, diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella, HUMAN PAPILLOMAVIRUS (HPV), pertussis, tetanus, pneumococcal disease, and hepatitis B to any such child shall give a certificate of such immunization to the person in parental relation to such child.

6. In the event that a person in parental relation to a child makes application for admission of such child to a school or has a child attending school and there exists no certificate or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall inform such person of the necessity to have, OR IN THE CASE OF HUMAN PAPILLOMAVIRUS (HPV) THE EFFICACY OF VOLUNTARILY HAVING, the child immunized, that such immunization may be administered by any health practitioner, or that the child may be immunized without charge by the health officer in the county where the child resides, if such person executes a consent therefor. In the event that such person does not wish to select a health practitioner to administer the immunization, he or she shall be provided with a form which shall give notice that as a prerequisite to processing the application for admission to, or for continued attendance at, the school such person shall state a valid reason for withholding consent or consent shall be given for immunization to be administered by a health officer in the public employ, or by a school physician or nurse. The form shall provide for the execution of a consent by such person and it shall also state that such person need not execute such consent if subdivision eight or nine of this section apply to such child.

S 2. Subdivision 1 of section 613 of the public health law, as amended by chapter 189 of the laws of 2006, is amended to read as follows:

1 1. The commissioner shall develop and supervise the execution of a
2 program of immunization, surveillance and testing, to raise to the high-
3 est reasonable level the immunity of the children of the state against
4 communicable diseases including, but not limited to, poliomyelitis,
5 measles, mumps, rubella, haemophilus influenzae type b (Hib), diphthe-
6 ria, pertussis, tetanus, varicella, hepatitis B, pneumococcal disease,
7 and the immunity of adults of the state against diseases identified by
8 the commissioner, including but not limited to influenza, smallpox, and
9 hepatitis. The commissioner shall encourage the municipalities in the
10 state to develop and shall assist them in the development and the
11 execution of local programs of inoculation to raise the immunity of the
12 children and adults of each municipality to the highest reasonable
13 level. Such programs shall include provision of vaccine, surveillance of
14 vaccine effectiveness by means of laboratory tests, serological testing
15 of individuals and educational efforts to inform health care providers
16 and target populations or their parents, if they are minors, of the
17 facts relative to these diseases and inoculation to prevent their occur-
18 rence. EDUCATIONAL EFFORTS SHALL INCLUDE, BUT NOT BE LIMITED TO, INFOR-
19 MATION ABOUT THE EFFICACY OF IMMUNIZING AGAINST HUMAN PAPILLOMAVIRUS
20 (HPV) TO ENCOURAGE INFORMED, VOLUNTARY VACCINATIONS. The commissioner
21 shall invite and encourage the active assistance and cooperation in such
22 education activities of: the medical societies, organizations of other
23 licensed health personnel, hospitals, corporations subject to article
24 forty-three of the insurance law, trade unions, trade associations,
25 parents and teachers and their associations, the media of mass communi-
26 cation, and such other voluntary groups and organizations of citizens as
27 he or she shall deem appropriate. The public health council, the depart-
28 ment of education, the department of family assistance, and the depart-
29 ment of mental hygiene shall provide the commissioner with such assist-
30 ance in carrying out the program as he or she shall request. All other
31 state agencies shall also render such assistance as the commissioner may
32 reasonably require for this program. Nothing in this subdivision shall
33 authorize mandatory immunization of adults or children, except as
34 provided in sections twenty-one hundred sixty-four and twenty-one
35 hundred sixty-five of this chapter.

36 S 3. Paragraph (a) of subdivision 1 of section 613 of the public
37 health law, as amended by chapter 36 of the laws of 2010, is amended to
38 read as follows:

39 (a) The commissioner shall develop and supervise the execution of a
40 program of immunization, surveillance and testing, to raise to the high-
41 est reasonable level the immunity of the children of the state against
42 communicable diseases including, but not limited to, influenza, poliomy-
43 elitis, measles, mumps, rubella, haemophilus influenzae type b (Hib),
44 diphtheria, pertussis, tetanus, varicella, hepatitis B, pneumococcal
45 disease, and the immunity of adults of the state against diseases iden-
46 tified by the commissioner, including but not limited to influenza,
47 smallpox, and hepatitis. The commissioner shall encourage the municipi-
48 lities in the state to develop and shall assist them in the develop-
49 ment and the execution of local programs of inoculation to raise the
50 immunity of the children and adults of each municipality to the highest
51 reasonable level. Such programs shall include provision of vaccine,
52 surveillance of vaccine effectiveness by means of laboratory tests,
53 serological testing of individuals and educational efforts to inform
54 health care providers and target populations or their parents, if they
55 are minors, of the facts relative to these diseases and inoculation to
56 prevent their occurrence. EDUCATIONAL EFFORTS SHALL INCLUDE, BUT NOT BE

1 LIMITED TO, INFORMATION ABOUT THE EFFICACY OF IMMUNIZING AGAINST HUMAN
2 PAPILLOMAVIRUS (HPV) TO ENCOURAGE INFORMED, VOLUNTARY VACCINATIONS.
3 S 4. This act shall take effect immediately; provided however that
4 section three of this act shall take effect on the same date and in the
5 same manner as section 1 of chapter 36 of the laws of 2010, takes
6 effect, when upon such date the provisions of section two of this act
7 shall be deemed repealed.