

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PAULIN, GOTTFRIED, GUNTHER, WEINSTEIN, ESPAILLAT, GREENE, MARKEY, ORTIZ, ROBINSON, CONTE, ALFANO, HOOPER, SPANO, GABRYS-ZAK, SCHIMEL, TITONE -- Multi-Sponsored by -- M. of A. BARRA, BING, BRODSKY, CUSICK, DESTITO, DIAZ, DINOWITZ, KELLNER, KOON, LIFTON, MAYERSOHN, TOWNS, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring 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, 3, 5 and 6 of  
2 section 2164 of the public health law, as amended by chapter 189 of the  
3 laws of 2006, subdivision 2 as separately amended by chapter 506 of the  
4 laws of 2006, are amended to read as follows:

5 Definitions; immunization against poliomyelitis, mumps, measles,  
6 diphtheria, rubella, varicella, HUMAN PAPIILLOMAVIRUS (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, HUMAN PAPIILLOMAVIRUS (HPV), Haemophilus influenzae type b  
13 (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B, which  
14 meets the standards approved by the United States public health service  
15 for such biological products, and which is approved by the department  
16 under such conditions as may be specified by the public health council.

17 b. Every person in parental relation to a child in this state born on  
18 or after January first, nineteen hundred ninety-four and entering sixth  
19 grade or a comparable age level special education program with an unas-  
20 signed grade on or after September first, two thousand seven, shall have

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

1 administered to such child a booster immunization containing diphtheria  
2 and tetanus toxoids, [and] an acellular pertussis vaccine, AND A HUMAN  
3 PAPILOMAVIRUS (HPV) VACCINE, which meets the standards approved by the  
4 United States public health service for such biological products, and  
5 which is approved by the department under such conditions as may be  
6 specified by the public health council.

7 3. The person in parental relation to any such child who has not  
8 previously received such immunization shall present the child to a  
9 health practitioner and request such health practitioner to administer  
10 the necessary immunization against poliomyelitis, mumps, measles,  
11 diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella,  
12 HUMAN PAPILOMAVIRUS (HPV), pertussis, tetanus, pneumococcal disease,  
13 and hepatitis B as provided in subdivision two of this section.

14 5. The health practitioner who administers such immunizing agent  
15 against poliomyelitis, mumps, measles, diphtheria, Haemophilus influen-  
16 zae type b (Hib), rubella, varicella, HUMAN PAPILOMAVIRUS (HPV),  
17 pertussis, tetanus, pneumococcal disease, and hepatitis B to any such  
18 child shall give a certificate of such immunization to the person in  
19 parental relation to such child.

20 6. In the event that a person in parental relation to a child makes  
21 application for admission of such child to a school or has a child  
22 attending school and there exists no certificate or other acceptable  
23 evidence of the child's immunization against poliomyelitis, mumps,  
24 measles, diphtheria, rubella, varicella, HUMAN PAPILOMAVIRUS (HPV),  
25 hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus  
26 influenzae type b (Hib) and pneumococcal disease, the principal, teach-  
27 er, owner or person in charge of the school shall inform such person of  
28 the necessity to have the child immunized, that such immunization may be  
29 administered by any health practitioner, or that the child may be immun-  
30 ized without charge by the health officer in the county where the child  
31 resides, if such person executes a consent therefor. In the event that  
32 such person does not wish to select a health practitioner to administer  
33 the immunization, he or she shall be provided with a form which shall  
34 give notice that as a prerequisite to processing the application for  
35 admission to, or for continued attendance at, the school such person  
36 shall state a valid reason for withholding consent or consent shall be  
37 given for immunization to be administered by a health officer in the  
38 public employ, or by a school physician or nurse. The form shall provide  
39 for the execution of a consent by such person and it shall also state  
40 that such person need not execute such consent if subdivision eight or  
41 nine of this section apply to such child.

42 S 2. Paragraph (a) of subdivision 7 of section 2164 of the public  
43 health law, as amended by chapter 189 of the laws of 2006, is amended to  
44 read as follows:

45 (a) No principal, teacher, owner or person in charge of a school shall  
46 permit any child to be admitted to such school, or to attend such  
47 school, in excess of fourteen days, without the certificate provided for  
48 in subdivision five of this section or some other acceptable evidence of  
49 the child's immunization against poliomyelitis, mumps, measles, diphthe-  
50 ria, rubella, varicella, HUMAN PAPILOMAVIRUS (HPV), hepatitis B,  
51 pertussis, tetanus, and, where applicable, Haemophilus influenzae type b  
52 (Hib) and pneumococcal disease; provided, however, such fourteen day  
53 period may be extended to not more than thirty days for an individual  
54 student by the appropriate principal, teacher, owner or other person in  
55 charge where such student is transferring from out-of-state or from

1 another country and can show a good faith effort to get the necessary  
2 certification or other evidence of immunization.

3 S 3. The opening paragraph of subdivision 8-a of section 2164 of the  
4 public health law, as amended by chapter 189 of the laws of 2006, is  
5 amended to read as follows:

6 Whenever a child has been refused admission to, or continued attend-  
7 ance at, a school as provided for in subdivision seven of this section  
8 because there exists no certificate provided for in subdivision five of  
9 this section or other acceptable evidence of the child's immunization  
10 against poliomyelitis, mumps, measles, diphtheria, rubella, varicella,  
11 HUMAN PAPILLOMAVIRUS (HPV), hepatitis B, pertussis, tetanus, and, where  
12 applicable, Haemophilus influenzae type b (Hib) and pneumococcal  
13 disease, the principal, teacher, owner or person in charge of the school  
14 shall:

15 S 4. Subdivision 1 of section 613 of the public health law, as amended  
16 by chapter 189 of the laws of 2006, is amended to read as follows:

17 1. The commissioner shall develop and supervise the execution of a  
18 program of immunization, surveillance and testing, to raise to the high-  
19 est reasonable level the immunity of the children of the state against  
20 communicable diseases including, but not limited to, poliomyelitis,  
21 measles, mumps, rubella, haemophilus influenzae type b (Hib), diphthe-  
22 ria, pertussis, tetanus, varicella, HUMAN PAPILLOMAVIRUS (HPV), hepati-  
23 tis B, pneumococcal disease, and the immunity of adults of the state  
24 against diseases identified by the commissioner, including but not  
25 limited to influenza, smallpox, and hepatitis. The commissioner shall  
26 encourage the municipalities in the state to develop and shall assist  
27 them in the development and the execution of local programs of inocu-  
28 lation to raise the immunity of the children and adults of each munici-  
29 pality to the highest reasonable level. Such programs shall include  
30 provision of vaccine, surveillance of vaccine effectiveness by means of  
31 laboratory tests, serological testing of individuals and educational  
32 efforts to inform health care providers and target populations or their  
33 parents, if they are minors, of the facts relative to these diseases and  
34 inoculation to prevent their occurrence. The commissioner shall invite  
35 and encourage the active assistance and cooperation in such education  
36 activities of: the medical societies, organizations of other licensed  
37 health personnel, hospitals, corporations subject to article forty-three  
38 of the insurance law, trade unions, trade associations, parents and  
39 teachers and their associations, the media of mass communication, and  
40 such other voluntary groups and organizations of citizens as he or she  
41 shall deem appropriate. The public health council, the department of  
42 education, the department of family assistance, and the department of  
43 mental hygiene shall provide the commissioner with such assistance in  
44 carrying out the program as he or she shall request. All other state  
45 agencies shall also render such assistance as the commissioner may  
46 reasonably require for this program. Nothing in this subdivision shall  
47 authorize mandatory immunization of adults or children, except as  
48 provided in sections twenty-one hundred sixty-four and twenty-one  
49 hundred sixty-five of this chapter.

50 S 5. This act shall take effect September 1, 2010; provided, however,  
51 that sections one, two and three of this act shall apply only to chil-  
52 dren born on or after January 1, 1996.