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

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I N A S S E M B L Y

January 25, 2012

Introduced by M. of A. P. RIVERA, J. MILLER, N. RIVERA, ORTIZ, TITONE, MAISEL, CRESPO, COLTON, CASTRO, BOYLAND, ROBERTS, WEPRIN, GIBSON, STEVENSON, MONTESANO, SALADINO, MARKEY, LINARES, THIELE, JAFFEE, CLARK, MILLMAN, LIFTON, GUNTHER, BARRON, LUPARDO, LENTOL, KELLNER, GALEF, MAGNARELLI, HOOPER, J. RIVERA, ROBINSON, RAMOS, ROSENTHAL, HEASTIE, PAULIN, MENG, ENGLEBRIGHT, SIMOTAS, COOK, TITUS, RUSSELL, BENEDETTO, REILLY -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN, CALHOUN, CERETTO, CYMBROWITZ, DUPREY, GOTTFRIED, GRAF, JORDAN, KEARNS, MALLIOTAKIS, McDONOUGH, McENENY, McKEVITT, MURRAY, PERRY, RA, SWEENEY, TENNEY, WEISENBERG -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to screening students for eating disorders

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

Section 1. Subdivision 1 of section 903 of the education law, as separately amended by section 11 of part B of chapter 58 and chapter 281 of the laws of 2007, is amended to read as follows:

1. A health certificate shall be furnished by each student in the public schools upon his or her entrance in such schools and upon his or her entry into the grades prescribed by the commissioner in regulations, provided that such regulations shall require such certificates at least twice during the elementary grades and twice in the secondary grades. An examination and health history of any child may be required by the local school authorities at any time in their discretion to promote the educational interests of such child. Each certificate shall be signed by a duly licensed physician, physician assistant, or nurse practitioner, who is authorized by law to practice in this state, and consistent with any applicable written practice agreement, or by a duly licensed physician, physician assistant, or nurse practitioner, who is authorized to practice in the jurisdiction in which the examination was given, provided that the commissioner has determined that such jurisdiction has standards of licensure and practice comparable to those of New York. Each

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

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such certificate shall describe the condition of the student when the examination was made, which shall not be more than twelve months prior to the commencement of the school year in which the examination is required, and shall state whether such student is in a fit condition of health to permit his or her attendance at the public schools. Each such certificate shall also state the student's body mass index (BMI) and weight status category. For purposes of this section, BMI is computed as the weight in kilograms divided by the square of height in meters or the weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703. Weight status categories for children and adolescents shall be as defined by the commissioner of health. FURTHERMORE, EACH SUCH CERTIFICATE SHALL INCLUDE AN ASSESSMENT OF THE STUDENT FOR EATING DISORDERS. SUCH ASSESSMENT FOR EATING DISORDERS SHALL BE CONDUCTED PURSUANT TO STANDARDS ESTABLISHED BY THE COMMISSIONER OF HEALTH. In all school districts such physician, physician assistant or nurse practitioner shall determine whether a one-time test for sickle cell anemia is necessary or desirable and he or she shall conduct such a test and the certificate shall state the results.

S 2. Subdivision 1 of section 904 of the education law, as amended by section 12 of part B of chapter 58 of the laws of 2007, is amended to read as follows:

1. Each principal of a public school, or his or her designee, shall report to the director of school health services having jurisdiction over such school, the names of all students who have not furnished health certificates as provided in section nine hundred three of this article, or who are children with disabilities, as defined by article eighty-nine of this chapter, and the director of school health services shall cause such students to be separately and carefully examined and tested to ascertain whether any student has defective sight or hearing, AN EATING DISORDER, or any other physical disability which may tend to prevent him or her from receiving the full benefit of school work, or from requiring a modification of such work to prevent injury to the student or from receiving the best educational results. Each examination shall also include a calculation of the student's body mass index (BMI) and weight status category. For purposes of this section, BMI is computed as the weight in kilograms divided by the square of height in meters or the weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703. Weight status categories for children and adolescents shall be as defined by the commissioner of health. In all school districts, such physician, physician assistant or nurse practitioner shall determine whether a one-time test for sickle cell anemia is necessary or desirable and he or she shall conduct such tests and the certificate shall state the results. If it should be ascertained, upon such test or examination, that any of such students have defective sight or hearing, AN EATING DISORDER, or other physical disability, including sickle cell anemia, as above described, the principal or his or her designee shall notify the parents of, or other persons in parental relation to, the child as to the existence of such disability OR DISORDER. If the parents or other persons in parental relation are unable or unwilling to provide the necessary relief and treatment for such students, such fact shall be reported by the principal or his or her designee to the director of school health services, whose duty it shall be to provide relief for such students. Each school and school district chosen as part of an appropriate sampling methodology shall participate in surveys directed by the commissioner of health pursuant to the public health law in relation to students' BMI and

weight status categories as determined by the examination conducted pursuant to this section and which shall be subject to audit by the commissioner of health. Such surveys shall contain the information required pursuant to this subdivision in relation to students' BMI and weight status categories in aggregate. Parents or other persons in parental relation to a student may refuse to have the student's BMI and weight status category included in such survey. Each school and school district shall provide the commissioner of health with any information, records and reports he or she may require for the purpose of such audit. The BMI and weight status survey and audit as described in this section shall be conducted consistent with confidentiality requirements imposed by federal law. Data collection for such surveys shall commence on a voluntary basis at the beginning of the two thousand seven academic school year, and by all schools chosen as part of the sampling methodology at the beginning of the two thousand eight academic school year. The department shall also utilize the collected data to develop a report of child obesity and obesity related diseases.

S 3. This act shall take effect on the first of July next succeeding the date on which it shall have become a law; provided that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.