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I N   A S S E M B L Y

April 16, 2014

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Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to meningococcal immunizations

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

1     Section 1. Section 2164 of the public health law, as added by chapter  
2     994 of the laws of 1966, the section heading and subdivisions 3, 5, and  
3     6, paragraph (a) of subdivision 7 and the opening paragraph of subdivi-  
4     sion 8-a, as amended by chapter 189 of the laws of 2006, paragraph b of  
5     subdivision 1 and subdivision 7 as amended by chapter 443 of the laws of  
6     1979, paragraph c of subdivision 1 as amended by chapter 119 of the laws  
7     of 2005, paragraph d of subdivision 1 as added and subdivisions 4 and  
8     8-a as amended by chapter 538 of the laws of 1989, subdivision 2 as  
9     separately amended by chapters 189 and 506 of the laws of 2006, subdivi-  
10    sions 8 and 10 as renumbered by chapter 633 of the laws of 1975, subdivi-  
11    sion 9 as separately amended by chapters 405 and 538 of the laws of  
12    1989, subdivision 10 as added by chapter 1094 of the laws of 1968, and  
13    subdivision 11 as added by chapter 521 of the laws of 1994, is amended  
14    to read as follows:

15    S 2164. Definitions; immunization against poliomyelitis, mumps,  
16    measles, diphtheria, rubella, varicella, Haemophilus influenzae type b  
17    (Hib), pertussis, tetanus, pneumococcal disease, MENINGOCOCCAL DISEASE,  
18    and hepatitis B. 1. As used in this section, unless the context  
19    requires otherwise:

20    a. The term "school" means and includes any public, private or paro-  
21    chial child caring center, day nursery, day care agency, nursery school,  
22    kindergarten, elementary, intermediate or secondary school.

23    b. The term "child" shall mean and include any person between the ages  
24    of two months and eighteen years.

25    c. The term "person in parental relation to a child" shall mean and  
26    include his father or mother, by birth or adoption, his legally  
27    appointed guardian, or his custodian. A person shall be regarded as the  
28    custodian of a child if he has assumed the charge and care of the child

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

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1 because the parents or legally appointed guardian of the minor have  
2 died, are imprisoned, are mentally ill, or have been committed to an  
3 institution, or because they have abandoned or deserted such child or  
4 are living outside the state or their whereabouts are unknown, or have  
5 designated the person pursuant to title fifteen-A of article five of the  
6 general obligations law as a person in parental relation to the child.

7 d. The term "health practitioner" shall mean any person authorized by  
8 law to administer an immunization.

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.

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  
21 administered to such child a booster immunization containing diphtheria  
22 and tetanus toxoids, and an acellular pertussis vaccine, which meets the  
23 standards approved by the United States public health service for such  
24 biological products, and which is approved by the department under such  
25 conditions as may be specified by the public health council.

26 C. EVERY PERSON IN PARENTAL RELATION TO A CHILD IN THIS STATE ENTERING  
27 OR HAVING ENTERED SIXTH GRADE AND ELEVENTH GRADE OR A COMPARABLE AGE  
28 LEVEL SPECIAL EDUCATION PROGRAM WITH AN UNASSIGNED GRADE ON OR AFTER  
29 SEPTEMBER FIRST, TWO THOUSAND FIFTEEN, SHALL HAVE ADMINISTERED TO SUCH  
30 CHILD AN ADEQUATE DOSE OR DOSES OF AN IMMUNIZING AGENT AGAINST MENINGO-  
31 COCCAL DISEASE AS RECOMMENDED BY THE ADVISORY COMMITTEE ON IMMUNIZATION  
32 PRACTICES, ACIP, WHICH MEETS THE STANDARDS APPROVED BY THE UNITED STATES  
33 PUBLIC HEALTH SERVICE FOR SUCH BIOLOGICAL PRODUCTS, AND WHICH IS  
34 APPROVED BY THE DEPARTMENT UNDER SUCH CONDITIONS AS MAY BE SPECIFIED BY  
35 THE PUBLIC HEALTH COUNCIL.

36 3. The person in parental relation to any such child who has not  
37 previously received such immunization shall present the child to a  
38 health practitioner and request such health practitioner to administer  
39 the necessary immunization against poliomyelitis, mumps, measles,  
40 diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella,  
41 pertussis, tetanus, pneumococcal disease, MENINGOCOCCAL DISEASE, and  
42 hepatitis B as provided in subdivision two of this section.

43 4. If any person in parental relation to such child is unable to pay  
44 for the services of a private health practitioner, such person shall  
45 present such child to the health officer of the county in which the  
46 child resides, who shall then administer the immunizing agent without  
47 charge.

48 5. The health practitioner who administers such immunizing agent  
49 against poliomyelitis, mumps, measles, diphtheria, Haemophilus influen-  
50 zae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal  
51 disease, MENINGOCOCCAL DISEASE, and hepatitis B to any such child shall  
52 give a certificate of such immunization to the person in parental  
53 relation to such child.

54 6. In the event that a person in parental relation to a child makes  
55 application for admission of such child to a school or has a child  
56 attending school and there exists no certificate or other acceptable

1 evidence of the child's immunization against poliomyelitis, mumps,  
2 measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus,  
3 and, where applicable, Haemophilus influenzae type b (Hib), MENINGOCOCCAL DISEASE,  
4 and pneumococcal disease, the principal, teacher,  
5 owner or person in charge of the school shall inform such person of the  
6 necessity to have the child immunized, that such immunization may be  
7 administered by any health practitioner, or that the child may be immun-  
8 ized without charge by the health officer in the county where the child  
9 resides, if such person executes a consent therefor. In the event that  
10 such person does not wish to select a health practitioner to administer  
11 the immunization, he or she shall be provided with a form which shall  
12 give notice that as a prerequisite to processing the application for  
13 admission to, or for continued attendance at, the school such person  
14 shall state a valid reason for withholding consent or consent shall be  
15 given for immunization to be administered by a health officer in the  
16 public employ, or by a school physician or nurse. The form shall provide  
17 for the execution of a consent by such person and it shall also state  
18 that such person need not execute such consent if subdivision eight or  
19 nine of this section apply to such child.

20 7. (a) No principal, teacher, owner or person in charge of a school  
21 shall permit any child to be admitted to such school, or to attend such  
22 school, in excess of fourteen days, without the certificate provided for  
23 in subdivision five of this section or some other acceptable evidence of  
24 the child's immunization against poliomyelitis, mumps, measles, diphtheria,  
25 rubella, varicella, hepatitis B, pertussis, tetanus, and, where  
26 applicable, Haemophilus influenzae type b (Hib), MENINGOCOCCAL DISEASE,  
27 and pneumococcal disease; provided, however, such fourteen day period  
28 may be extended to not more than thirty days for an individual student  
29 by the appropriate principal, teacher, owner or other person in charge  
30 where such student is transferring from out-of-state or from another  
31 country and can show a good faith effort to get the necessary certification  
32 or other evidence of immunization.

33 (b) A parent, a guardian or any other person in parental relationship  
34 to a child denied school entrance or attendance may appeal by petition  
35 to the commissioner of education in accordance with the provisions of  
36 section three hundred ten of the education law.

37 8. If any physician licensed to practice medicine in this state certifies  
38 that such immunization may be detrimental to a child's health, the  
39 requirements of this section shall be inapplicable until such immunization  
40 is found no longer to be detrimental to the child's health.

41 8-a. Whenever a child has been refused admission to, or continued  
42 attendance at, a school as provided for in subdivision seven of this  
43 section because there exists no certificate provided for in subdivision  
44 five of this section or other acceptable evidence of the child's immunization  
45 against poliomyelitis, mumps, measles, diphtheria, rubella, varicella,  
46 hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus  
47 influenzae type b (Hib), MENINGOCOCCAL DISEASE, and pneumococcal  
48 disease, the principal, teacher, owner or person in charge of the school  
49 shall:

50 a. forward a report of such exclusion and the name and address of such  
51 child to the local health authority and to the person in parental  
52 relation to the child together with a notification of the responsibility  
53 of such person under subdivision two of this section and a form of  
54 consent as prescribed by regulation of the commissioner, and

55 b. provide, with the cooperation of the appropriate local health  
56 authority, for a time and place at which an immunizing agent or agents

1 shall be administered, as required by subdivision two of this section,  
2 to a child for whom a consent has been obtained. Upon failure of a local  
3 health authority to cooperate in arranging for a time and place at which  
4 an immunizing agent or agents shall be administered as required by  
5 subdivision two of this section, the commissioner shall arrange for such  
6 administration and may recover the cost thereof from the amount of state  
7 aid to which the local health authority would otherwise be entitled.

8 9. This section shall not apply to children whose parent, parents, or  
9 guardian hold genuine and sincere religious beliefs which are contrary  
10 to the practices herein required, and no certificate shall be required  
11 as a prerequisite to such children being admitted or received into  
12 school or attending school.

13 10. The commissioner may adopt and amend rules and regulations to  
14 effectuate the provisions and purposes of this section.

15 11. Every school shall annually provide the commissioner, on forms  
16 provided by the commissioner, a summary regarding compliance with the  
17 provisions of this section.

18 S 2. This act shall take effect immediately.