

791--C

2015-2016 Regular Sessions

I N   A S S E M B L Y

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Introduced by M. of A. GUNTHER, JAFFEE, O'DONNELL, TITONE, LAVINE, QUART, ZEBROWSKI, RODRIGUEZ, PAULIN, WALTER, HEVESI, GOLDFEDER, McDONALD, DUPREY, BRINDISI, STECK, AUBRY, WEPRIN, SCHIMEL, CLARK, DINOWITZ, KAMINSKY, SIMOTAS, STIRPE, LINARES, ROSENTHAL, SKOUFIS -- Multi-Sponsored by -- M. of A. FITZPATRICK, PALMESANO, PERRY, RA, RAIA, SIMANOWITZ -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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:

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

LBD02179-11-5

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

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

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

11 c. The term "person in parental relation to a child" shall mean and  
12 include his father or mother, by birth or adoption, his legally  
13 appointed guardian, or his custodian. A person shall be regarded as the  
14 custodian of a child if he has assumed the charge and care of the child  
15 because the parents or legally appointed guardian of the minor have  
16 died, are imprisoned, are mentally ill, or have been committed to an  
17 institution, or because they have abandoned or deserted such child or  
18 are living outside the state or their whereabouts are unknown, or have  
19 designated the person pursuant to title fifteen-A of article five of the  
20 general obligations law as a person in parental relation to the child.

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

23 2. a. Every person in parental relation to a child in this state shall  
24 have administered to such child an adequate dose or doses of an immuniz-  
25 ing agent against poliomyelitis, mumps, measles, diphtheria, rubella,  
26 varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus,  
27 pneumococcal disease, and hepatitis B, which meets the standards  
28 approved by the United States public health service for such biological  
29 products, and which is approved by the department under such conditions  
30 as may be specified by the public health council.

31 b. Every person in parental relation to a child in this state born on  
32 or after January first, nineteen hundred ninety-four and entering sixth  
33 grade or a comparable age level special education program with an unas-  
34 signed grade on or after September first, two thousand seven, shall have  
35 administered to such child a booster immunization containing diphtheria  
36 and tetanus toxoids, and an acellular pertussis vaccine, which meets the  
37 standards approved by the United States public health service for such  
38 biological products, and which is approved by the department under such  
39 conditions as may be specified by the public health council.

40 C. EVERY PERSON IN PARENTAL RELATION TO A CHILD IN THIS STATE ENTERING  
41 OR HAVING ENTERED SEVENTH GRADE AND TWELFTH GRADE OR A COMPARABLE AGE  
42 LEVEL SPECIAL EDUCATION PROGRAM WITH AN UNASSIGNED GRADE ON OR AFTER  
43 SEPTEMBER FIRST, TWO THOUSAND SIXTEEN, SHALL HAVE ADMINISTERED TO SUCH  
44 CHILD AN ADEQUATE DOSE OR DOSES OF IMMUNIZING AGENTS AGAINST MENINGOCOC-  
45 CAL DISEASE AS RECOMMENDED BY THE ADVISORY COMMITTEE ON IMMUNIZATION  
46 PRACTICES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION, WHICH MEETS  
47 THE STANDARDS APPROVED BY THE UNITED STATES PUBLIC HEALTH SERVICE FOR  
48 SUCH BIOLOGICAL PRODUCTS, AND WHICH IS APPROVED BY THE DEPARTMENT UNDER  
49 SUCH CONDITIONS AS MAY BE SPECIFIED BY THE PUBLIC HEALTH AND PLANNING  
50 COUNCIL.

51 3. The person in parental relation to any such child who has not  
52 previously received such immunization shall present the child to a  
53 health practitioner and request such health practitioner to administer  
54 the necessary immunization against poliomyelitis, mumps, measles,  
55 diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella,

pertussis, tetanus, pneumococcal disease, MENINGOCOCCAL DISEASE, and hepatitis B as provided in subdivision two of this section.

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

5. The health practitioner who administers such immunizing agent against poliomyelitis, mumps, measles, diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal disease, MENINGOCOCCAL 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), MENINGOCOCCAL DISEASE, and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall inform such person of the necessity to have 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.

7. (a) No principal, teacher, owner or person in charge of a school shall permit any child to be admitted to such school, or to attend such school, in excess of fourteen days, without the certificate provided for in subdivision five of this section or some 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), MENINGOCOCCAL DISEASE, and pneumococcal disease; provided, however, such fourteen day period may be extended to not more than thirty days for an individual student by the appropriate principal, teacher, owner or other person in charge where such student is transferring from out-of-state or from another country and can show a good faith effort to get the necessary certification or other evidence of immunization.

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

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

1 8-a. Whenever a child has been refused admission to, or continued  
2 attendance at, a school as provided for in subdivision seven of this  
3 section because there exists no certificate provided for in subdivision  
4 five of this section or other acceptable evidence of the child's immuni-  
5 zation against poliomyelitis, mumps, measles, diphtheria, rubella, vari-  
6 cella, hepatitis B, pertussis, tetanus, and, where applicable, Haemophi-  
7 lus influenzae type b (Hib), MENINGOCOCCAL DISEASE, and pneumococcal  
8 disease, the principal, teacher, owner or person in charge of the school  
9 shall:

10 a. forward a report of such exclusion and the name and address of such  
11 child to the local health authority and to the person in parental  
12 relation to the child together with a notification of the responsibility  
13 of such person under subdivision two of this section and a form of  
14 consent as prescribed by regulation of the commissioner, and

15 b. provide, with the cooperation of the appropriate local health  
16 authority, for a time and place at which an immunizing agent or agents  
17 shall be administered, as required by subdivision two of this section,  
18 to a child for whom a consent has been obtained. Upon failure of a local  
19 health authority to cooperate in arranging for a time and place at which  
20 an immunizing agent or agents shall be administered as required by  
21 subdivision two of this section, the commissioner shall arrange for such  
22 administration and may recover the cost thereof from the amount of state  
23 aid to which the local health authority would otherwise be entitled.

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

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

31 11. Every school shall annually provide the commissioner, on forms  
32 provided by the commissioner, a summary regarding compliance with the  
33 provisions of this section.

34 S 2. This act shall take effect immediately.