

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

791--C

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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, RAI, 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.

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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,

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

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

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

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

36 7. (a) No principal, teacher, owner or person in charge of a school
37 shall permit any child to be admitted to such school, or to attend such
38 school, in excess of fourteen days, without the certificate provided for
39 in subdivision five of this section or some other acceptable evidence of
40 the child's immunization against poliomyelitis, mumps, measles, diphthe-
41 ria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where
42 applicable, Haemophilus influenzae type b (Hib), MENINGOCOCCAL DISEASE,
43 and pneumococcal disease; provided, however, such fourteen day period
44 may be extended to not more than thirty days for an individual student
45 by the appropriate principal, teacher, owner or other person in charge
46 where such student is transferring from out-of-state or from another
47 country and can show a good faith effort to get the necessary certif-
48 ication or other evidence of immunization.

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

53 8. If any physician licensed to practice medicine in this state certi-
54 fies that such immunization may be detrimental to a child's health, the
55 requirements of this section shall be inapplicable until such immuniza-
56 tion 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.