

STATE OF NEW YORK

218--B

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to requiring anaphylactic policies for child care services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as "Elijah's Law".
2 § 2. Section 2500-h of the public health law, as added by chapter 579
3 of the laws of 2007, is amended to read as follows:

4 § 2500-h. Anaphylactic policy for school districts and child care
5 providers. 1. (a) The commissioner, in consultation with the commis-
6 sioner of education, shall establish an anaphylactic policy for school
7 districts setting forth guidelines and procedures to be followed for
8 both the prevention of anaphylaxis and during a medical emergency
9 resulting from anaphylaxis. Such policy shall be developed after
10 consultation with representatives of pediatric physicians, school nurses
11 and other health care providers with expertise in treating children with
12 anaphylaxis, parents of children with life threatening allergies, school
13 administrators, teachers, school food service directors and appropriate
14 not-for-profit corporations representing allergic individuals at risk
15 for anaphylaxis.

16 (b) The commissioner, in consultation with the commissioner of chil-
17 dren and family services, shall establish an anaphylactic policy for
18 child day care providers as defined in section three hundred ninety of
19 the social services law setting forth guidelines and procedures to be

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

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1 followed for both the prevention of anaphylaxis and during a medical
2 emergency resulting from anaphylaxis. Such policy shall be developed
3 after consultation with representatives of pediatric physicians and
4 other health care providers with expertise in treating children with
5 anaphylaxis, parents of children with life threatening allergies, child
6 day care administrators and personnel, and appropriate not-for-profit
7 corporations representing allergic individuals at risk for anaphylaxis.
8 The commissioner, in consultation with the commissioner of children and
9 family services, shall create informational materials detailing such
10 anaphylactic policies to be distributed to child day care centers.

11 (c) In establishing policies pursuant to this subdivision, such
12 commissioners shall consider existing requirements, as well as current
13 and best practices for schools and child day care providers on allergies
14 and anaphylaxis, including those in place for child care centers regu-
15 lated by the New York city department of health and mental hygiene.
16 Such commissioners shall also consider the voluntary guidelines for
17 managing food allergies in schools and early care and education programs
18 issued by the United States department of health and human services, to
19 the extent appropriate for the setting.

20 (d) The commissioner shall create informational materials detailing
21 such anaphylactic policies to be distributed to local school boards of
22 education, charter schools, boards of cooperative educational services,
23 and child day care centers, and shall make the materials available on
24 the department's website.

25 2. The anaphylactic [~~policy~~] policies established [~~by~~] under subdivi-
26 sion one of this section shall include the following:

27 (a) a procedure and treatment plan, including emergency protocols and
28 responsibilities for school nurses and other appropriate school and
29 child day care personnel, for responding to anaphylaxis;

30 (b) a training course for appropriate school and child day care
31 personnel for preventing and responding to anaphylaxis. The commissioner
32 shall, in consultation with the commissioner of children and family
33 services and the commissioner of education, consider existing training
34 programs for responding to anaphylaxis in order to avoid duplicative
35 training requirements. Such pre-existing program shall fulfill the
36 requirement for a training course pursuant to this subdivision if the
37 standards of such pre-existing program are deemed by the commissioner to
38 be at least as stringent as the standards promulgated by the commission-
39 er in the development of the training course by the state;

40 (c) a procedure and appropriate guidelines for the development of an
41 individualized emergency health care plan for children with a food or
42 other allergy which could result in anaphylaxis;

43 (d) a communication plan for intake and dissemination of information
44 provided by the state regarding children with a food or other allergy
45 which could result in anaphylaxis, including a discussion of methods,
46 treatments and therapies to reduce the risk of allergic reactions,
47 including anaphylaxis; [~~and~~]

48 (e) strategies for the reduction of the risk of exposure to anaphylac-
49 tic causative agents, including food and other allergens[~~-~~]; and

50 (f) a communication plan for discussion with children that have devel-
51 oped adequate verbal communication and comprehension skills and with the
52 parents or guardians of all children about foods that are safe and
53 unsafe and about strategies to avoid exposure to unsafe food.

54 3. [~~On or before June thirtieth, two thousand eight~~] At least once per
55 calendar year, schools shall send a notification to the parents and/or
56 guardians of all children under the care of such schools to make them

1 aware of such anaphylactic policies, as developed by the commissioner.
2 For children under the care of the child day care providers, such
3 notification shall be provided by the child day care provider when the
4 child is enrolled and annually thereafter. Such notifications shall
5 include contact information for parents and guardians to engage further
6 with the school or child day care provider to learn more about individ-
7 ualized aspects of such policies.

8 4. Within six months of the effective date of the chapter of the laws
9 of two thousand nineteen which amended this section, ~~[an]~~ the anaphylac-
10 tic ~~[policy]~~ policies established under this section shall be jointly
11 forwarded by the commissioner ~~[and]~~as well as the commissioner of educa-
12 tion or the commissioner of children and family services as appropriate
13 to each local school board of education, charter school, ~~[and]~~ board of
14 cooperative educational services and child day care service provider, as
15 defined in section three hundred ninety of the social services law, in
16 the state. Each such ~~[board and charter school]~~ entity shall ~~[consider~~
17 ~~and take action in response to such]~~ implement or update as appropriate
18 their anaphylactic policy in accordance with those developed by the
19 state within six months of receiving the anaphylactic policies.

20 5. The anaphylactic policies established by this section shall be
21 updated at least once every three years, or more frequently if the
22 commissioner determines it to be necessary or desirable for the
23 protection of children with a food allergy or other allergy which could
24 result in anaphylaxis.

25 § 3. This act shall take effect immediately; provided that the amend-
26 ments to subdivision 3 of section 2500-h of the public health law made
27 by section one of this act shall take effect one year after this act
28 shall have become a law. Effective immediately, the addition, amendment
29 and/or repeal of any rule or regulation necessary for the implementation
30 of this act on its effective date are authorized to be made and
31 completed on or before such effective date.