

# STATE OF NEW YORK

---

2912

2019-2020 Regular Sessions

## IN ASSEMBLY

January 28, 2019

---

Introduced by M. of A. PAULIN, GUNTHER, ORTIZ -- Multi-Sponsored by --  
M. of A. DINOWITZ, LIFTON -- read once and referred to the Committee  
on Health

AN ACT to amend the public health law, in relation to requiring immunization against human papillomavirus (HPV)

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 amended by chapter 401 of the laws of 2015, is amended to read as follows:

2 § 2164. Definitions; immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, human papillomavirus (HPV), Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, meningococcal disease, and hepatitis B. 1. As used in this section, unless the context requires otherwise:

3 a. The term "school" means and includes any public, private or parochial child caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate or secondary school.

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

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

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

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

LBD03954-03-9

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

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

c. Every person in parental relation to a child in this state entering or having entered seventh grade and twelfth grade or a comparable age level special education program with an unassigned grade on or after September first, two thousand sixteen, shall have administered to such child an adequate dose or doses of immunizing agents against meningococcal disease as recommended by the advisory committee on immunization practices of the centers for disease control and prevention, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health and planning council.

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

1 shall inform such person of the necessity to have the child immunized,  
2 that such immunization may be administered by any health practitioner,  
3 or that the child may be immunized without charge by the health officer  
4 in the county where the child resides, if such person executes a consent  
5 therefor. In the event that such person does not wish to select a health  
6 practitioner to administer the immunization, he or she shall be provided  
7 with a form which shall give notice that as a prerequisite to processing  
8 the application for admission to, or for continued attendance at, the  
9 school such person shall state a valid reason for withholding consent or  
10 consent shall be given for immunization to be administered by a health  
11 officer in the public employ, or by a school physician or nurse. The  
12 form shall provide for the execution of a consent by such person and it  
13 shall also state that such person need not execute such consent if  
14 subdivision eight or nine of this section apply to such child.

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

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

32 8. If any physician licensed to practice medicine in this state certi-  
33 fies that such immunization may be detrimental to a child's health, the  
34 requirements of this section shall be inapplicable until such immuniza-  
35 tion is found no longer to be detrimental to the child's health.

36 8-a. Whenever a child has been refused admission to, or continued  
37 attendance at, a school as provided for in subdivision seven of this  
38 section because there exists no certificate provided for in subdivision  
39 five of this section or other acceptable evidence of the child's immuni-  
40 zation against poliomyelitis, mumps, measles, diphtheria, rubella, vari-  
41 cella, human papillomavirus (HPV), hepatitis B, pertussis, tetanus, and,  
42 where applicable, Haemophilus influenzae type b (Hib), meningococcal  
43 disease, and pneumococcal disease, the principal, teacher, owner or  
44 person in charge of the school shall:

45 a. forward a report of such exclusion and the name and address of such  
46 child to the local health authority and to the person in parental  
47 relation to the child together with a notification of the responsibility  
48 of such person under subdivision two of this section and a form of  
49 consent as prescribed by regulation of the commissioner, and

50 b. provide, with the cooperation of the appropriate local health  
51 authority, for a time and place at which an immunizing agent or agents  
52 shall be administered, as required by subdivision two of this section,  
53 to a child for whom a consent has been obtained. Upon failure of a local  
54 health authority to cooperate in arranging for a time and place at which  
55 an immunizing agent or agents shall be administered as required by  
56 subdivision two of this section, the commissioner shall arrange for such

1 administration and may recover the cost thereof from the amount of state  
2 aid to which the local health authority would otherwise be entitled.

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

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

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

13 § 2. Paragraph (a) of subdivision 1 of section 613 of the public  
14 health law, as amended by section 24 of part E of chapter 56 of the laws  
15 of 2013, is amended to read as follows:

16 (a) The commissioner shall develop and supervise the execution of a  
17 program of immunization, surveillance and testing, to raise to the high-  
18 est reasonable level the immunity of the children of the state against  
19 communicable diseases including, but not limited to, influenza, poliomy-  
20 elitis, measles, mumps, rubella, haemophilus influenzae type b (Hib),  
21 diphtheria, pertussis, tetanus, varicella, human papillomavirus (HPV),  
22 hepatitis B, pneumococcal disease, and the immunity of adults of the  
23 state against diseases identified by the commissioner, including but not  
24 limited to influenza, smallpox, hepatitis and such other diseases as the  
25 commissioner may designate through regulation. Municipalities in the  
26 state shall maintain local programs of immunization to raise the immuni-  
27 ty of the children and adults of each municipality to the highest  
28 reasonable level, in accordance with an application for state aid  
29 submitted by the municipality and approved by the commissioner. Such  
30 programs shall include assurance of provision of vaccine, serological  
31 testing of individuals and educational efforts to inform health care  
32 providers and target populations or their parents, if they are minors,  
33 of the facts relative to these diseases and immunizations to prevent  
34 their occurrence.

35 § 3. This act shall take effect on the first of September next  
36 succeeding the date on which it shall have become a law; provided,  
37 however, that section one of this act shall apply only to children born  
38 on or after January 1, 2008.