

# STATE OF NEW YORK

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298

2019-2020 Regular Sessions

## IN SENATE

(Prefiled)

January 9, 2019

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Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed 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. The section heading and subdivisions 2, 3, 5 and 6 of  
2 section 2164 of the public health law, as amended by chapter 401 of the  
3 laws of 2015, are amended to read as follows:

4 Definitions; immunization against poliomyelitis, mumps, measles,  
5 diphtheria, rubella, varicella, human papillomavirus (HPV), Haemophilus  
6 influenzae type b (Hib), pertussis, tetanus, pneumococcal disease,  
7 meningococcal disease, and hepatitis B.

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

16 b. Every person in parental relation to a child in this state born on  
17 or after January first, nineteen hundred ninety-four and entering sixth  
18 grade or a comparable age level special education program with an unas-  
19 signed grade on or after September first, two thousand seven, shall have  
20 administered to such child a booster immunization containing diphtheria  
21 and tetanus toxoids, [~~and~~] an acellular pertussis vaccine, and human  
22 papillomavirus (HPV), which meets the standards approved by the United  
23 States public health service for such biological products, and which is

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

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1 approved by the department under such conditions as may be specified by  
2 the public health council.

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

14 3. The person in parental relation to any such child who has not  
15 previously received such immunization shall present the child to a  
16 health practitioner and request such health practitioner to administer  
17 the necessary immunization against poliomyelitis, mumps, measles,  
18 diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella,  
19 human papillomavirus (HPV), pertussis, tetanus, pneumococcal disease,  
20 meningococcal disease, and hepatitis B as provided in subdivision two of  
21 this section.

22 5. The health practitioner who administers such immunizing agent  
23 against poliomyelitis, mumps, measles, diphtheria, Haemophilus influen-  
24 zae type b (Hib), rubella, varicella, pertussis, human papillomavirus  
25 (HPV), tetanus, pneumococcal disease, meningococcal disease, and hepati-  
26 tis B to any such child shall give a certificate of such immunization to  
27 the person in parental relation to such child.

28 6. In the event that a person in parental relation to a child makes  
29 application for admission of such child to a school or has a child  
30 attending school and there exists no certificate or other acceptable  
31 evidence of the child's immunization against poliomyelitis, mumps,  
32 measles, diphtheria, rubella, varicella, hepatitis B, pertussis, teta-  
33 nus, and, where applicable, Haemophilus influenzae type b (Hib), menin-  
34 gococcal disease, and pneumococcal disease, the principal, teacher,  
35 owner or person in charge of the school shall inform such person of the  
36 necessity to have the child immunized, that such immunization may be  
37 administered by any health practitioner, or that the child may be immu-  
38 nized without charge by the health officer in the county where the child  
39 resides, if such person executes a consent therefor. In the event that  
40 such person does not wish to select a health practitioner to administer  
41 the immunization, he or she shall be provided with a form which shall  
42 give notice that as a prerequisite to processing the application for  
43 admission to, or for continued attendance at, the school such person  
44 shall state a valid reason for withholding consent or consent shall be  
45 given for immunization to be administered by a health officer in the  
46 public employ, or by a school physician or nurse. The form shall provide  
47 for the execution of a consent by such person and it shall also state  
48 that such person need not execute such consent if subdivision eight or  
49 nine of this section apply to such child.

50 § 2. Paragraph (a) of subdivision 7 of section 2164 of the public  
51 health law, as amended by chapter 401 of the laws of 2015, is amended to  
52 read as follows:

53 (a) No principal, teacher, owner or person in charge of a school shall  
54 permit any child to be admitted to such school, or to attend such  
55 school, in excess of fourteen days, without the certificate provided for  
56 in subdivision five of this section or some other acceptable evidence of

1 the child's immunization against poliomyelitis, mumps, measles, diphthe-  
2 ria, rubella, varicella, human papillomavirus (HPV), hepatitis B,  
3 pertussis, tetanus, and, where applicable, Haemophilus influenzae type b  
4 (Hib), meningococcal disease, and pneumococcal disease; provided, howev-  
5 er, such fourteen day period may be extended to not more than thirty  
6 days for an individual student by the appropriate principal, teacher,  
7 owner or other person in charge where such student is transferring from  
8 out-of-state or from another country and can show a good faith effort to  
9 get the necessary certification or other evidence of immunization.

10 § 3. The opening paragraph of subdivision 8-a of section 2164 of the  
11 public health law, as amended by chapter 401 of the laws of 2015, is  
12 amended to read as follows:

13 Whenever a child has been refused admission to, or continued attend-  
14 ance at, a school as provided for in subdivision seven of this section  
15 because there exists no certificate provided for in subdivision five of  
16 this section or other acceptable evidence of the child's immunization  
17 against poliomyelitis, mumps, measles, diphtheria, rubella, varicella,  
18 human papillomavirus (HPV), hepatitis B, pertussis, tetanus, and, where  
19 applicable, Haemophilus influenzae type b (Hib), meningococcal disease,  
20 and pneumococcal disease, the principal, teacher, owner or person in  
21 charge of the school shall:

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

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

44 § 5. This act shall take effect on the first of September next  
45 succeeding the date on which it shall have become a law; provided,  
46 however, that sections one, two and three of this act shall apply only  
47 to children born on or after January 1, 1998.