STATE OF NEW YORK

5909

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. RIVERA -- 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 health-care workers practicing in close proximity to children less than twelve months of age to receive the tetanus, diphtheria, acellular pertussis (Tdap) vaccine

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

Section 1. The public health law is amended by adding a new section 2169 to read as follows:

§ 2169. Tdap immunization. 1. a. Except as provided in subdivision three of this section, every hospital and healthcare practice in this state treating children less than twelve months of age shall require all healthcare employees practicing in close proximity to children less than twelve months of age to be immunized against tetanus, diphtheria and acellular pertussis through administration of the Tdap vaccine in accordance with regulations of the commissioner.

b. Each such hospital and healthcare practice subject to the provisions of this section shall notify its healthcare employee of the immunization requirements of this section and request that each employee agree to be immunized against tetanus, diphtheria and acellular pertussis through administration of the Tdap vaccine.

2. Each hospital or healthcare practice subject to the provisions of this section shall require documentation of immunization against tetanus, diphtheria and acellular pertussis for each employee practicing in close proximity to children less than twelve months of age. Upon finding that an employee is lacking such immunization or is unable to provide documentation that he or she has received the appropriate immunization, the hospital or healthcare practice shall provide or arrange for immunization. An individual who is newly employed as an employee shall have his or her immunization status determined by the hospital or healthcare

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

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practice, and if found to be deficient, the hospital or healthcare practice shall provide or arrange for the necessary immunization.

3. a. No individual shall be required to receive the Tdap vaccine if the vaccine is medically contraindicated, or if it is against his or her religious beliefs, or if he or she refuses the vaccine after being fully informed of the health risks of such action.

b. An individual who has not received the vaccine for any reason specified in paragraph a of this subdivision shall wear a mask when treating children less than twelve months of age or shall be assigned to a position where encountering children less than twelve months of age is unlikely.

4. For the purposes of this section:

a. "Documentation" means written evidence from an individual's healthcare provider indicating the date and place when the individual received the Tdap vaccine.

b. "Employee" means an individual employed (whether directly, by contract with another entity or as an independent contractor) by a hospital or healthcare practice, on a part-time or full-time basis.

c. "Medically contraindicated" means the Tdap vaccine should not be administered to an individual because it may be detrimental to the individual's health if the individual receives the vaccine.

5. a. The commissioner shall promulgate regulations relating to the immunization requirements of this section, taking into consideration the recommendations of the centers for disease control and prevention including, but not limited to, regulations authorizing the waiver of the requirements of this section for any healthcare worker whose blood testing reveals immunity to pertussis as evidenced by a sufficient antibody titer.

b. The commissioner shall make available educational and informational materials to all hospitals and healthcare practices in this state treating children less than twelve months of age with respect to vaccination against tetanus, diphtheria and acellular pertussis.

§ 2. This act shall take effect on the first of January next succeeding the date upon which it shall have become a law. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.