# STATE OF NEW YORK

3049

2021-2022 Regular Sessions

# IN ASSEMBLY

January 22, 2021

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to requiring dental health certificates to be furnished by a student at the same time that health certificates are required

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

Section 1. Subdivisions 2, 3 and 4 of section 903 of the education law, subdivision 2 as amended by section 1 of part S of chapter 57 of the laws of 2013, subdivisions 3 and 4 as amended by chapter 281 of the laws of 2007, and paragraph a of subdivision 3 as amended by section 28 of part A of chapter 58 of the laws of 2008, are amended to read as follows:

2. a. A dental health certificate shall be [~~requested from~~] **furnished by** each student[~~. Each student is requested to furnish a dental health certificate~~] at the same time that health certificates are required. An assessment and dental health history of any child may be requested by the local school authorities at any time in their discretion to promote the educational interests of such child. Each certificate shall be signed by a duly licensed dentist, or a registered dental hygienist who is authorized by law to practice in this state, and consistent with any applicable written practice agreement, or by a duly licensed dentist or registered dental hygienist who is authorized to practice in the jurisdiction in which the assessment was given, provided that the commissioner has determined that such jurisdiction has standards of licensure and practice comparable to those of New York. Each such certificate shall describe the dental health condition of the student when the assessment was made, which shall not be more than twelve months prior to the commencement of the school year in which the assessment is requested, and shall state whether such student is in fit condition of dental health to permit his or her attendance at the public schools.

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

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b. A notice of [~~request for~~] dental health [~~certificates~~] **certificate requirements** shall be distributed at the same time that parents or person in parental relationship to students are notified of health examination requirements and shall state that a list of dental practices, dentists and registered dental hygienists to which children may be referred for dental services on a free or reduced cost basis is available upon request at the child's school. The department shall, in collaboration with the department of health, compile and maintain a list of dental practices, dentists and registered dental hygienists to which children may be referred for dental services on a free or reduced cost basis. Such list shall be made available to all public schools and be made available to parents or person in parental relationship upon request. The department shall promulgate regulations to ensure the gathering and dissemination of the proper information to interested parties.

3. [~~a.~~] Within thirty days after the student's entrance in such schools or grades, the health certificate **and dental health certificate** shall be submitted to the principal or his or her designee and shall be filed in the student's cumulative health record. If such student does not present a health certificate **or dental health certificate** as required in this section, unless he or she has been accommodated on religious grounds, the principal or the principal's designee shall cause a notice to be sent to the parents or person in parental relationship to such student that if the required health certificate is not furnished within thirty days from the date of such notice, an examination will be made of such student, as provided in this article. Each school and school district chosen as part of an appropriate sampling methodology shall participate in surveys directed by the commissioner of health pursuant to the public health law in relation to students' BMI and weight status categories as reported on the school health certificate and which shall be subject to audit by the commissioner of health. Such surveys shall contain the information required pursuant to subdivision one of this section in relation to students' BMI and weight status categories in aggregate. Parents or other persons in parental relation to a student may refuse to have the student's BMI and weight status category included in such survey. Each school and school district shall provide the commissioner of health with any information, records and reports he or she may require for the purpose of such audit. The BMI and weight status survey and audit as described in this subdivision shall be conducted consistent with confidentiality requirements imposed by federal law.

[~~b. Within thirty days after the student's entrance in such schools or grades, the dental health certificate, if obtained, shall be filed in the student's cumulative health record.~~]

4. Notwithstanding the provisions of subdivisions one, two and three of this section[~~,~~]**:**

**a.** no examinations for a health certificate [~~or~~]**,** health history **or dental health certificate** shall be required [~~or dental certificate requested~~], and no screening examinations for sickle cell anemia shall be required where a student or the parent or person in parental relation to such student objects thereto on the grounds that such examinations or health history conflict with their genuine and sincere religious beliefs**; and**

**b. no dental certificate shall be required if a school district received an exemption, pursuant to paragraph b of subdivision two of section nine hundred four of this article, and the department has not**

**identified a free or reduced cost dental provider in the student's county, pursuant to subdivision two of this section**.

§ 2. Section 904 of the education law, as amended by chapter 477 of the laws of 2007, subdivision 1 as amended by section 12 of part B of chapter 58 of the laws of 2007, is amended to read as follows:

§ 904. Examinations by health appraisal. 1. Each principal of a public school, or his or her designee, shall report to the director of school health services having jurisdiction over such school, the names of all students who have not furnished health certificates **or dental certificates** as provided in section nine hundred three of this article, or who are children with disabilities, as defined by article eighty-nine of this chapter[~~, and the~~].

**a. The** director of school health services shall cause such students to be separately and carefully examined and tested to ascertain whether any student has defective sight or hearing, or any other physical disability which may tend to prevent him or her from receiving the full benefit of school work, or from requiring a modification of such work to prevent injury to the student or from receiving the best educational results. Each examination shall also include a calculation of the student's body mass index (BMI) and weight status category. For purposes of this section, BMI is computed as the weight in kilograms divided by the square of height in meters or the weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703. Weight status categories for children and adolescents shall be as defined by the commissioner of health. In all school districts, such physician, physician assistant or nurse practitioner shall determine whether a one-time test for sickle cell anemia is necessary or desirable and he or she shall conduct such tests and the certificate shall state the results. If it should be ascertained, upon such test or examination, that any of such students have defective sight or hearing, or other physical disability, including sickle cell anemia, as above described, the principal or his or her designee shall notify the parents of, or other persons in parental relation to, the child as to the existence of such disability. If the parents or other persons in parental relation are unable or unwilling to provide the necessary relief and treatment for such students, such fact shall be reported by the principal or his or her designee to the director of school health services, whose duty it shall be to provide relief for such students. Each school and school district chosen as part of an appropriate sampling methodology shall participate in surveys directed by the commissioner of health pursuant to the public health law in relation to students' BMI and weight status categories as determined by the examination conducted pursuant to this section and which shall be subject to audit by the commissioner of health. Such surveys shall contain the information required pursuant to this subdivision in relation to students' BMI and weight status categories in aggregate. Parents or other persons in parental relation to a student may refuse to have the student's BMI and weight status category included in such survey. Each school and school district shall provide the commissioner of health with any information, records and reports he or she may require for the purpose of such audit. The BMI and weight status survey and audit as described in this section shall be conducted consistent with confidentiality requirements imposed by federal law. Data collection for such surveys shall commence on a voluntary basis at the beginning of the two thousand seven academic school year, and by all schools chosen as part of the sampling methodology at the beginning of the two thousand eight academic school year. The department shall also

utilize the collected data to develop a report of child obesity and obesity related diseases.

**b. The director of school health services shall cause such students to be separately and carefully examined and tested by a duly licensed dentist or registered dental hygienist to ascertain whether they are in fit condition of dental health to permit his or her attendance at school. Each examination shall also note whether the student has ever had a cavity, whether untreated cavities are present, whether dental sealants are present, and any recommended treatment options.**

2. Notwithstanding the provisions of subdivision one of this section[~~,~~]**:**

**a.** no examinations shall be required pursuant to this section where a student or the parent or person in parental relation to such student objects thereto on the grounds that such examinations conflict with their genuine and sincere religious beliefs**; and**

**b. no examination shall be required pursuant to paragraph b of subdivision one of this section if the district has received an exemption from the commissioner or the district's local county board of cooperative educational services.**

§ 3. Subdivision 4 of section 1950 of the education law is amended by adding a new paragraph pp to read as follows:

**pp. A board of cooperative educational services is authorized to provide to a school district an exemption from the provisions of paragraph b of subdivision one of section nine hundred four of this chapter. Requirements for such exemption shall be promulgated by rules and regulations by the commissioner in accordance with subdivision fifty-nine of section three hundred five of this chapter.**

§ 4. Section 305 of the education law is amended by adding a new subdivision 59 to read as follows:

**59. The commissioner is authorized to provide to a school district an exemption from the provisions of paragraph b of subdivision one of section nine hundred four of this chapter. The commissioner shall promulgate rules and regulations to establish criteria for such exemption that shall include, but not be limited to, evidence that the school district has made a good faith effort to hire or contract with a duly licensed dentist or registered dental hygienist to provide the required examination and was unable to do so.**

§ 5. This act shall take effect on the first of July, 2022.