STATE OF NEW YORK

2678

2021-2022 Regular Sessions

IN SENATE

January 22, 2021

Introduced by Sens. GALLIVAN, BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the education law and the public health law, in relation to medical exemptions from vaccination requirements

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

Section 1. The education law is amended by adding a new section 6509-f to read as follows:

§ 6509-f. Failure to immunize not professional misconduct. 1. Notwithstanding any other provision of law to the contrary, it shall not be considered professional misconduct pursuant to this subarticle for any person who is licensed under title eight of this chapter to:

a. fail to immunize any patient under their care if such patient refuses or a person in parental relation to a child refuses consent to immunization of such child;

b. provide a certification that any immunization may be detrimental to a patient's health if, in his or her professional judgment, such immunization poses a risk to such patient; or

c. provide any treatment or care to a patient who has not received any immunizations required by law.

2. No person who is licensed under title eight of this chapter shall be subject to any proceedings, including investigations, for misconduct for any actions set forth in subdivision one of this section.

§ 2. Subdivision 8 of section 2164 of the public health law, as amended by chapter 401 of the laws of 2015, is amended to read as follows:

8. If any physician licensed to practice medicine in this state certifies that such immunization may be detrimental to a child's health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to the child's health. **A**

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

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certification by a physician under this subdivision shall not be subject to review by any department, public officer or board.

§ 3. Paragraph (c) of subdivision 1 of section 2805-h of the public health law, as amended by chapter 266 of the laws of 2006, is amended to read as follows:

(c) If any physician licensed to practice medicine in this state certifies that such immunization may be detrimental to a child's health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to the child's health. **A certification by a physician under this paragraph shall not be subject to review by any department, public officer or board.**

§ 4. This act shall take effect immediately.