

# STATE OF NEW YORK

8430

## IN SENATE

January 29, 2024

Introduced by Sen. SKOUFIS -- 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 rotavirus for certain children

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 chap-  
2 ter 401 of the laws of 2015, subdivision 6 as amended by chapter 35 of  
3 the laws of 2019, is amended to read as follows:

4 § 2164. Definitions; immunization against poliomyelitis, mumps,  
5 measles, diphtheria, rubella, varicella, Haemophilus influenzae type b  
6 (Hib), pertussis, tetanus, pneumococcal disease, meningococcal disease,  
7 [~~and~~] hepatitis B, and rotavirus. 1. As used in this section, unless  
8 the context requires otherwise:

9 a. The term "school" means and includes any public, private or paro-  
10 chial child caring center, day nursery, day care agency, nursery school,  
11 kindergarten, elementary, intermediate or secondary school.

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

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

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

26 2. a. Every person in parental relation to a child in this state shall  
27 have administered to such child an adequate dose or doses of an immuniz-  
28 ing agent against poliomyelitis, mumps, measles, diphtheria, rubella,

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

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1 varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus,  
2 pneumococcal disease, [~~and~~] hepatitis B, and rotavirus, which meets the  
3 standards approved by the United States public health service for such  
4 biological products, and which is approved by the department under such  
5 conditions as may be specified by the public health and health planning  
6 council; provided, however, no person in parental relation to a child in  
7 this state shall be required to have administered to such child any  
8 immunizing agent required by this section where such child would not be  
9 able to have such immunizing agent administered in a manner approved by  
10 the department under such conditions as may be specified by the public  
11 health and health planning council due to the child's age.

12 b. Every person in parental relation to a child in this state born on  
13 or after January first, nineteen hundred ninety-four and entering sixth  
14 grade or a comparable age level special education program with an unas-  
15 signed grade on or after September first, two thousand seven, shall have  
16 administered to such child a booster immunization containing diphtheria  
17 and tetanus toxoids, and an acellular pertussis vaccine, which meets the  
18 standards approved by the United States public health service for such  
19 biological products, and which is approved by the department under such  
20 conditions as may be specified by the public health and health planning  
21 council.

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

33 3. The person in parental relation to any such child who has not  
34 previously received such immunization shall present the child to a  
35 health practitioner and request such health practitioner to administer  
36 the necessary immunization against poliomyelitis, mumps, measles,  
37 diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella,  
38 pertussis, tetanus, pneumococcal disease, meningococcal disease, [~~and~~]  
39 hepatitis B, and rotavirus, as provided in subdivision two of this  
40 section.

41 4. If any person in parental relation to such child is unable to pay  
42 for the services of a private health practitioner, such person shall  
43 present such child to the health officer of the county in which the  
44 child resides, who shall then administer the immunizing agent without  
45 charge.

46 5. The health practitioner who administers such immunizing agent  
47 against poliomyelitis, mumps, measles, diphtheria, Haemophilus influen-  
48 zae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal  
49 disease, meningococcal disease, [~~and~~] hepatitis B, and rotavirus, to any  
50 such child shall give a certificate of such immunization to the person  
51 in parental relation to such child.

52 6. In the event that a person in parental relation to a child makes  
53 application for admission of such child to a school or has a child  
54 attending school and there exists no certificate or other acceptable  
55 evidence of the child's immunization against poliomyelitis, mumps,  
56 measles, diphtheria, rubella, varicella, hepatitis B, pertussis, teta-

1 nus, rotavirus, and, where applicable, Haemophilus influenzae type b  
2 (Hib), meningococcal disease, and pneumococcal disease, the principal,  
3 teacher, owner or person in charge of the school shall inform such  
4 person of the necessity to have the child immunized, that such immuniza-  
5 tion may be administered by any health practitioner, or that the child  
6 may be immunized without charge by the health officer in the county  
7 where the child resides, if such person executes a consent therefor. In  
8 the event that such person does not wish to select a health practitioner  
9 to administer the immunization, he or she shall be provided with a form  
10 which shall give notice that as a prerequisite to processing the appli-  
11 cation for admission to, or for continued attendance at, the school such  
12 person shall state a valid reason for withholding consent or consent  
13 shall be given for immunization to be administered by a health officer  
14 in the public employ, or by a school physician or nurse. The form shall  
15 provide for the execution of a consent by such person and it shall also  
16 state that such person need not execute such consent if subdivision  
17 eight of this section applies to such child.

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

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

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

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

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

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

1 health authority to cooperate in arranging for a time and place at which  
2 an immunizing agent or agents shall be administered as required by  
3 subdivision two of this section, the commissioner shall arrange for such  
4 administration and may recover the cost thereof from the amount of state  
5 aid to which the local health authority would otherwise be entitled.

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

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

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

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

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