

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 chapter 401 of the laws of 2015, subdivision 6 as amended by chapter 35 of the laws of 2019, is amended to read as follows:

2 § 2164. Definitions; immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, meningococcal disease, 3 [and] hepatitis B, and rotavirus. 1. As used in this section, unless the context requires otherwise:

4 a. The term "school" means and includes any public, private or parochial child caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate or secondary school.

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

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

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

8 2. a. Every person in parental relation to a child in this state shall have administered to such child an adequate dose or doses of an immunizing 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.