

June 21, 2019

**Legal Alert: New York State Eliminates Non-Medical Exemptions  
from School Vaccination Requirements**

In response to the ongoing measles outbreak, New York legislators have taken action to repeal all non-medical exemptions from certain vaccination requirements for children attending school in New York.

On June 13, 2019, the New York State legislature passed Bill No. S.2994A/A.2371, which repeals non-medical exemptions to the New York public health laws requiring immunization against certain diseases for all children enrolled in New York schools. Governor Cuomo immediately signed the bill, and the new law has become effective as of June 13, 2019.

What is the school vaccination requirement?

Section 2164 of the New York Public Health Law (PHL) requires all children to receive certain immunizations (including immunizations against measles) before being allowed to attend all levels of school from day care through high school. The law also provides for certain procedures that must be followed by schools to communicate and implement the immunization requirements in addition to certain exemptions. Specifically:

- PHL Section 2164(2)(a) requires parents (or guardians) to have administered to their children immunizations against poliomyelitis, mumps, measles, diphtheria, rubella, hepatitis B, pertussis, tetanus and varicella.
- PHL Section 2164(7)(a) provides that a school shall not permit any child to be admitted to or attend school in excess of 14 days (or, up to 30 days in certain cases where a student is transferring from out-of-state or another country) without a certificate of immunization or other documentation evidencing the required immunizations.

Under PHL Section 2164(a), the term “school” is defined as “any public, private or parochial child caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate or secondary school.”

What is the effect of the new law?

The new law repeals PHL Section 2164(a)(9), which provided that (i) the immunization requirements of PHL Section 2164 do not apply to children whose parents (or guardians) hold “genuine and sincere religious beliefs” that are contrary to the practices to the immunization requirements, and (ii) children whose parents (or guardians) hold such religious beliefs may be admitted or attend school without the required immunization documents.

Thus, effective as of June 13, 2019, the so-called “religious exemption” provision contained in PHL Section 2164(a)(9) is no longer available. All children attending schools in New York who are medically able to receive vaccinations must be vaccinated and have in place appropriate

immunization documents required under PHL Section 2164, regardless of any religious belief held by their parents or guardians.

The only remaining exemption after the new law is the so-called “medical exemption” under PHL Section 2164(8), which provides an exemption from the school vaccination requirements if a New York State licensed physician certifies that immunization may be detrimental to a child’s health.

What about the religious exemption forms?

As of June 13, 2019, the Department of Health (DOH) regulations regarding school vaccination requirements have not yet been amended to conform to the new law. The DOH regulations generally provide schools with broad discretion to determine how any requests for exemptions should be submitted by parents, whether supporting evidence of any exemption requests are necessary, and ultimately to grant or deny any requests for exemption.

It is anticipated that DOH will revise its school immunization regulations in the future to conform to the new law, including the following provisions:

- 10 NYCRR 66-1.3(d), which allows for parents or guardians to submit to the school a form issued by the New York State Education Department (NYSED) or a signed statement requesting a religious exemption from the school vaccinations required for admission.
- 10 NYCRR 66-1.4, which permits the school to allow a child to attend for more than 14 days if parents or guardians have submitted (and the school has accepted) a religious exemption request.

***This alert is meant to provide general information only, not legal advice. For further questions or information, please contact Bee-Seon Keum at 212-219-1800 ext. 240, [bkeum@lawyersalliance.org](mailto:bkeum@lawyersalliance.org), or visit our website [www.lawyersalliance.org](http://www.lawyersalliance.org).***

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations and social enterprises that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, Lawyers Alliance for New York helps nonprofits to develop and provide housing, stimulate economic opportunity, improve urban health and education, promote community arts, and operate and advocate for vital programs that benefit low-income New Yorkers of all ages.