

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

BOARD OF HEALTH

NOTICE OF INTENTION  
TO AMEND ARTICLE 47 OF THE NEW YORK CITY HEALTH CODE

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**NOTICE OF PUBLIC HEARING**

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In compliance with §1043(b) of the New York City Charter (the “Charter”) and pursuant to the authority granted to the Board of Health by §558 of said Charter, notice is hereby given of the proposed amendment of Article 47 (Child Care Services) of the New York City Health Code (the “Health Code”).

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE WILL HOLD A PUBLIC HEARING ON THE PROPOSAL FROM 10:00 A.M. TO 12:00 NOON ON FRIDAY, JULY 31, 2009 IN THE THIRD FLOOR BOARDROOM (ROOM 330) AT 125 WORTH STREET, NEW YORK, NEW YORK 10013.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK SHOULD NOTIFY, IN WRITING, RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK; (212) 788-5010 BY 5:00 P.M. THURSDAY, JULY 30, 2009. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL BUSINESS HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013; (212) 788-5010 BY FRIDAY, JULY 17, 2009.

REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 10:00 A.M. HOWEVER, PREFERENCE WILL BE GIVEN TO THOSE WHO PREREGISTER.

WRITTEN COMMENTS REGARDING THE PROPOSAL ADDRESSED TO THE ATTENTION OF THE BOARD OF HEALTH MUST BE SUBMITTED TO RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, BY MAIL TO 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013, BY FAX TO (212) 788-4315, BY E-MAIL TO [RESOLUTIONCOMMENTS@HEALTH.NYC.GOV](mailto:RESOLUTIONCOMMENTS@HEALTH.NYC.GOV) OR ONLINE (WITHOUT ATTACHMENTS) AT <http://www.nyc.gov/html/doh/html/notice/notice.shtml> ON OR BEFORE 5:00 P.M., FRIDAY, JULY 31, 2009. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY TO THE BOARD OF HEALTH AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. AT THE OFFICE OF THE SECRETARY. THE DEPARTMENT’S GENERAL POLICY IS TO MAKE WRITTEN COMMENTS AVAILABLE FOR PUBLIC VIEWING ON THE INTERNET. ALL COMMENTS RECEIVED, INCLUDING ANY PERSONAL INFORMATION PROVIDED, WILL BE POSTED WITHOUT CHANGE TO <http://www.nyc.gov/html/doh/html/comment/comment.shtml>.

## **STATUTORY AUTHORITY**

These amendments to the Health Code are promulgated pursuant to §§558 and 1043 of the Charter. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Commissioner and the Department of Health and Mental Hygiene (the Department) extends. Section 1043 grants the Department rule-making authority.

## **STATEMENT OF BASIS AND PURPOSE**

The Board of Health, at its meeting on March 6, 2008, adopted a resolution repealing and reenacting Article 47 of the New York City Health Code (Child Care Services). The Department requests that the Board further amend §47.09 (Applications for permits) of the Code to require child care services to maintain e-mail addresses and to provide the Department with e-mail contact information.

The Department is seeking this amendment to enable it to better and more timely communicate directly to child care services information of public health concern that may affect the health and safety of children. Timely, rapid communication is important, for example, in instances of product recalls or public health or other emergencies, when the Department needs to advise permittees of appropriate protocols and preventive measures.

During the spring 2009 H1N1 influenza outbreak, the Department's Bureau of Child Care attempted to communicate immediately with child care services to inform permittees of preventive measures and reporting protocols. The bureau was able to communicate directly by e-mail with approximately 50% of the 2,000 child care services, but could only use mail and fax for the remaining services, unnecessarily delaying communication efforts.

### **Statement Pursuant to Charter § 1043**

This proposal was not included in the Department's regulatory agenda because the need for the amendment became known after publication of the regulatory agenda.

The amendment is as follows:

Matter underlined is new

Matter to be deleted is indicated by [ ] brackets

RESOLVED, that §47.09 of Article 47 (Child Care Services) of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, adopted by resolution on the sixth of March, two thousand eight, be, and the same hereby is, amended, to be printed together with explanatory notes, to read as follows:

**§47.09 Applications for permits.** A person or entity that has never held a permit issued by the Commissioner to operate a child care service and that proposes to operate a child care service subject to

such permit, shall attend a pre-permit orientation session held by the Department and shall thereafter submit an application for a permit to the Department.

(a) *New application.* An application for a new permit shall be submitted on forms approved or provided by the Department and shall include:

\* \* \*

(7) Proof of workers' compensation and disability benefits insurance covering all employees.

(8) Proof of the service's ability to receive electronic communications. An e-mail address shall be provided for the educational director and for one or more other persons designated by the permittee or other person in control of a child care service as persons to receive electronic communications from the Department. The Department shall be notified of changes in e-mail addresses for the educational director or other designees when such changes become effective.

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(c) *Renewal application.* An application for renewal of a permit shall be submitted on forms provided by the Department no later than 90 days before the expiration date of the current permit, and shall include the permit fee, and a full description of any changes in teaching staff, written safety plan, e-mail communication information, written health plan, physical facilities, required staff training or program which occurred after submission of the previous permit application.

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Notes: Subdivisions (a) and (c) of §47.09 were amended by resolution of the Board of Health on XXX to require that new and renewal applications for permits to operate a child care service contain e-mail addresses for the educational director and one or more other persons designated by the permittee to enable rapid receipt of communications from the Department in the event of product recalls, or public health or other emergencies affecting the health and safety of children attending the service.