

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

BOARD OF HEALTH

NOTICE OF ADOPTION OF AMENDMENTS
TO ARTICLE 47 OF THE NEW YORK CITY HEALTH CODE

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, a notice of intention to amend Article 47 (Child Care Services) of the New York City Health Code (the “Health Code”) was published in the City Record on June 26, 2009 and a public hearing was held on June 31, 2009. No testimony or comments were received. At its meeting on September 22, 2009, the Board of Health adopted the following resolution.

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). At the Department’s request the Board has further amended §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 sought 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.

* * *

(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.

* * *

Notes: Subdivisions (a) and (c) of §47.09 were amended by resolution of the Board of Health on September 22, 2009 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.