

DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
BOARD OF HEALTH  
NOTICE OF ADOPTION OF AMENDMENTS TO SECTIONS 11.04 AND 11.07 OF THE NEW  
YORK CITY HEALTH CODE

In compliance with Section 1043(b) of the New York City Charter and pursuant to the authority granted to the Board of Health by Section 558 of said Charter, notice was given of the amendment to Section 11.04, Subsections (a) and (b), repeal of subsection (c) of Section 11.04 and proposed amendment of Section 11.07, Subsection (d)(1) of the New York City Health Code. The Notice of Intention was published in The City Record on Wednesday, March 16, 2005. A public hearing was held on April 21, 2005. No one testified and seven written comments in support of the proposed amendments were received by the Department. After a review of the transcript of the public hearing and the comments received, no changes were made in response to the comments. The Board of Health at its July 7, 2005 meeting adopted the following resolution.

**STATUTORY AUTHORITY**

These amendments to the New York City Health Code (“Health Code”) are promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (“Charter”). Section 556 of the Charter grants the Department of Health and Mental Hygiene (the “Department”) jurisdiction to regulate matters affecting health in the City of New York. Section 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 Department’s authority extends. Section 1043 of the Charter grants the Department of Health rule making powers.

**STATEMENT OF BASIS AND PURPOSE**

The New York City Department of Health and Mental Hygiene’s amendments will expand the current age range for required reporting of immunizations from age seven and under [see New York City Health Code Section 11.04 (a) (1)] to age eighteen and under. The Department’s amendments will also allow reporting of immunizations administered to persons age nineteen and over, with written consent of the person immunized [see New York City Health Code Section 11.04 (a) (3)] or the person’s legal guardian. The immunizations will be reported to the Department’s existing Citywide Immunization Registry (CIR).

The Department’s goals for collecting reports of immunizations to a broader age range is to reduce the rates of illness, disability and death from vaccine-preventable disease outbreaks, and to improve outreach and follow-up of adolescent and high-risk adult populations. Tracking immunizations through the CIR will help to improve immunization coverage in adolescent and high-risk adult populations, thereby preventing the spread of vaccine-preventable diseases such as hepatitis B. In addition, vaccine wastage will be avoided by preventing unnecessary “duplicate” vaccinations to adolescents and high-risk adults because records are lost and no vaccination history is available.

These amendments will enable the Department to measure coverage in adolescent vaccination campaigns. Older children are now required to be up-to-date with immunizations such as hepatitis B and varicella for school entry. Many children receive these immunizations after they reach their eighth year of age. In addition, a large number of school-age children immigrate to New York City every year, and often arrive without an immunization record. The CIR will create a record of the immunizations given to these children and track their immunization status going forward. By capturing immunizations given to older children, the CIR will be able to assist schools with compliance, prevent children from being over-

immunized, and assist in targeting the children that are lacking vaccinations, thus preventing the spread of vaccine-preventable disease.

Additionally, all post-secondary school institutions (colleges, professional schools, etc.) require compliance with certain vaccinations. For college, New York State law requires an MMR, and other professional schools require additional immunizations. CIR can hold and provide records for these adult populations to use in order to satisfy entrance requirements and avoid unnecessary, duplicate vaccinations. CIR will also work with the colleges and professional schools to identify and target those individuals that actually need vaccinations, thereby increasing immunization coverage in student populations and preventing the spread of vaccine-preventable diseases.

A registry is a useful tool, especially for individuals who have fragmented care and/or a disrupted family environment. These include individuals who are homeless, in foster care, or are living in shelters or correctional facilities. The CIR will help these individuals by keeping their immunization histories and making them available, as needed, to health care providers and agencies such as health plans, schools (i.e., elementary, middle, and high schools as well as colleges and professional schools), summer camps, and correctional facilities. By making these immunization histories available, CIR will help health care providers and agencies determine which vaccinations an individual needs, and avoid unnecessary vaccinations. Immunization coverage in these populations will increase, thereby preventing the spread of vaccine-preventable disease.

The registry can be a very helpful tool for capturing and tracking high-risk adolescent populations who get immunized with hepatitis A and B vaccines in adolescent clinics. By capturing those immunizations, the CIR will assist in preventing over-immunization as well as identifying and targeting those that lack immunizations, thereby increasing immunization rates and preventing the spread of vaccine preventable diseases.

The registry can be used as an accountability tool for doses administered under the Vaccines for Children program (VFC). A large proportion of children living in NYC (67%) are eligible for VFC. To use the CIR as a tool to account for VFC vaccine doses administered by providers, the reporting requirement must be expanded through 18 years. Improving accountability for VFC vaccine by using the CIR will help to reduce vaccine wastage and should ensure that providers receive an adequate supply of vaccine for their patients eligible to receive VFC vaccine.

These amendments will also enable the Department to monitor uptake of flu vaccine. This will help the Department to evaluate the impact of broader flu vaccine coverage on the prevention and control of influenza outbreaks.

The Department anticipates that expanding the age range for required reporting of immunizations administered through age eighteen will not impose a heavy additional burden on providers. The volume and frequency of immunizations administered to children age eight through eighteen is low in comparison with the high level of immunizing in the first two years of life. The majority of providers have already established a routine for reporting immunizations administered to children age seven and younger. While it will be necessary for providers to adjust this routine, the amount of additional effort is not considered to present a major barrier to compliance. An increasing number of immunization registries across the United States now collect reports of immunizations administered to persons of all ages.

The Department's amendment to allow for voluntary reporting of immunizations administered to adults, with written consent, should be particularly helpful in facilitating the Department's plan to establish partnerships with providers and health plans to improve for example, flu, pneumococcal and or

hepatitis A or B vaccine coverage for various high risk individuals (for example, homeless, living in shelters etc.)

**STATEMENT PURSUANT TO SECTION 1042- REGULATORY AGENDA**

This rule was not included in the Regulatory Agenda because it is the result of recent analysis by the Department.

The adopted rule is as follows:

Note- matter in brackets [] to be deleted  
matter underlined is new

RESOLVED, that paragraph (1) of subsection (a) of Section 11.04 of the New York City Health Code as last amended by resolution, on the twenty-sixth day of April, nineteen hundred and ninety-four, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

**§11.04 Immunization Registry.**

(a) (1) All immunizations administered to any child age [seven] eighteen and under shall be reported to the Department, within 14 days of such immunization, by any person authorized by law to administer an immunization, or a person in charge of a hospital, clinic or other institution where such immunization is administered. Upon application of a provider, the Department in its discretion and when deemed necessary may extend the period of time within which a provider shall report immunizations. Any person required to report pursuant to this section shall also report to the Department any occurrences or matters which are reportable to the Secretary of Health and Human Services pursuant to the Vaccine Adverse Event Reporting System established by 42 U.S.C. Section 300aa-25(b) or any successor statute and any rules adopted pursuant thereto. The reporting of such occurrences or matters to the Department shall be made at the same time as made to the Secretary of Health and Human Services.

Notes: Paragraph (1) of subsection (a) of Section 11.04 was amended on July 7, 2005 to change the ages for mandatory reporting of immunizations from seven and under to eighteen and under in order to enable the Department to better account for vaccine doses administered to older children and thus preventing the spread of vaccine-preventable diseases.

RESOLVED, that paragraph (2) of subsection (a) of Section 11.04 of the New York City Health Code as last amended by resolution, on the twenty-sixth day of April, nineteen hundred and ninety-four, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

(a) (2) Reports submitted to the Department pursuant to this section shall contain the name, address, and any other information required by the Department for the proper identification of the [child] individual, demographic and epidemiological information and the immunization record, including past immunizations administered to the [child] individual, in the possession of the person required to report pursuant to this section. Such [R] reports [required pursuant to this section] shall be made in manner and form prescribed by the Department which may require reports to be made in writing on prescribed form, or by electronic or computer media.

Notes: Paragraph (2) of subsection (a) of Section 11.04 was amended on July 7, 2005 to clarify the reports that will be submitted to the Department.

RESOLVED, that paragraph (3) of subsection (a) of Section 11.04 of the New York City Health Code as last amended by resolution, on the twenty-sixth day of April, nineteen hundred and ninety-four, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

(a)(3) Reports of an immunization administered to any [child] individual age [eight through] nineteen and above may be submitted to the Department provided that the person administering the immunization or the person in charge of the hospital, clinic or other institution where the immunization is administered, has obtained the written consent to report such immunization [from the custodial parent or guardian of the child or other person in parental or custodial relation to the child, or, as may be required by applicable law,] from the person to whom such immunization information relates or from such person's legal guardian.

Notes: Paragraph (3) of subsection (a) of Section 11.04 was amended on July 7, 2005 change the ages for which immunizations can be reported to the Department with consent from eight through nineteen to nineteen and older.

RESOLVED, subsection (b) of Section 11.04 of the New York City Health Code as last amended by resolution, on the twenty-sixth day of April, nineteen hundred and ninety-four, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

(b) All records of [childhood] immunization created or received by the Department shall be maintained in an immunization registry and shall be subject to the limitations of §11.07(d) of this Code.

Notes: Subsection (b) of Section 11.04 was amended on July 7, 2005 to reflect that the immunization registry will receive reports of immunizations for adults and not only children.

RESOLVED, that subsection (c) of Section 11.04 of the New York City Health Code as last amended by resolution, on the twenty-sixth day of April, nineteen hundred and ninety-four, be and the same hereby is repealed:

[(c) Compliance with the provisions of this of this section shall be required and enforced in accordance with the following:

(1) On and after September 1, 1994, compliance with subsection (a) of this section shall be required by those persons authorized by law to administer an immunization and by persons in charge of hospitals, clinics or other institutions where immunization are administered upon designation by the Commissioner, when, based upon community prevalence of vaccine-preventable disease, community immunization levels of children entering schools, and other epidemiological information, the Commissioner deems reporting to be essential to protect the public health; and

(2) On and after January 1, 1997, compliance with subsection (a) of this section shall be required by all remaining persons authorized by law to administer an immunization and persons in charge of hospitals, clinics and other institutions here immunizations are administered, provided however, that the Commissioner may, in his or her discretion, designate by rule an earlier date for the universal compliance.]

Notes: Subsection (c) of Section 11.04 was repealed on July 7, 2005 because these provisions no longer apply.

RESOLVED, that paragraph (1) of subsection (d) of Section 11.07 of the New York City Health Code as last amended by resolution, on the twenty-sixth day of April, nineteen hundred and ninety-four, be and the same hereby is amended, to be printed with explanatory notes to read as follows:

**§11.07 Confidentiality of reports and records.**

(d) (1) Information contained in the immunization registry created pursuant to §11.04 of this Code and the children's blood registry established pursuant to §11.06 of this Code shall be confidential and not subject to inspection by persons other than authorized personnel of the Department or the Corporation Counsel of the City and persons or agencies authorized herein. The Department may disclose information concerning immunizations to [a child] an individual and children's blood lead tests results and the dates of such administration or testing and may permit access to such information by a person, authorized by

law to administer an immunization or administer or order a blood test, who is immunizing, treating or testing such individual or child. The Department may disclose such information to a person or agency concerned with the immunization or blood lead testing of children authorized by the Department when (i) such person or agency provides sufficient identifying information satisfactory to the Department to identify such child or individual and (ii) such disclosure is in the best interests of such individual or child and his or her family, or will contribute to the protection of the public health. Notwithstanding the foregoing, the person to whom any immunization or blood lead test record relates, or his or her custodial parent, guardian, or other person in parental or custodial relation to such relation to such person, may, by signing a written consent, authorize the Commissioner to disclose such record. Such record shall be subject to subpoena pursuant to Section 2307 of the Civil Practice Law and Rules, where applicable.

Notes: Paragraph (1) of subsection (d) of Section 11.07 was amended on July 7, 2005 to better enable the Department to collect reports of immunizations and thus reduce the incidence of illness, disability and death due to vaccine-preventable diseases.