



Department of Health and Mental Hygiene

Board of Health

Notice of Adoption of an Amendment 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 March 19, 2014. The notice indicated that no public hearing would be held but that comments on the proposed amendment could be submitted no later than April 21, 2014. No comments were received and no changes were made to the resolution. At its meeting on June 9, 2014, the Board of Health adopted the following resolution.

Statement of Basis and Purpose of the Amendment

The authority for this amendment is found in §§556 and 558 of the New York City Charter. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the New York City Health Code (the “Health Code”) all matters to which the Department’s authority extends. Section 1043 grants the Department rule-making authority.

The Charter provides the New York City Department of Health and Mental Hygiene (the “Department” or “DOHMH”) with jurisdiction to protect and promote the health of all New Yorkers.

The Bureau of Child Care, in the Department’s Division of Environmental Health, enforces Article 47 (Child Care Services) of the Health Code, which regulates all public and private group day care services providing care for children under six years of age. Health and safety standards for school-based programs for children ages three through five are established in Article 43 of the Health Code.

At its meeting on December 10, 2013, the Board of Health amended Articles 43 and 47 to add a new requirement that children between 6 and 59 months of age attending school based programs and child care services receive annual influenza vaccinations. The resolution as adopted contained a drafting error in §47.25(a)(2)(C), which used the term “school” instead of “permittee,” to refer to the entity holding a child care service permit.

The Board of Health is amending Article 47 to correct the error and substitute the term “permittee” for “school” in this provision.

The resolution is as follows:

Note-matter in brackets [] to be deleted

Matter underlined is new

RESOLVED, that subparagraph (C) of paragraph 2 of subdivision (a) of section 47.25 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

(C) A [school] permittee that fails to maintain documentation showing that each child in attendance has received each vaccination required by this subdivision or is exempt from such a

requirement pursuant to paragraph A or B of this subdivision will be subject to fines for each child not meeting such requirements as provided for under this Code.

Notes: Subparagraph (C) of paragraph 2 of subdivision (a) of §47.25 was amended by resolution of the Board adopted on June 9, 2014 to correct an error referring to a school rather than a child care service permittee as being responsible for documenting compliance with vaccination requirements.