



**Department of Health and Mental Hygiene
Board of Health**

**Notice of Adoption
of Amendments to the New York City Health Code**

In compliance with section 1043(b) of the New York City Charter (the “Charter”) and pursuant to the authority granted to the Board of Health (the “Board”) by section 558 of said Charter, a notice of intention to amend Article 181 of the New York City Health Code (the “Health Code”) was published in the City Record on June 23, 2015, and a public hearing was held on July 28, 2015. No one testified. While written comments were received, no changes have been made to the amendment proposed. At its meeting on September 9, 2015, the Board of Health adopted the following resolution.

Statement of Basis and Purpose

Statutory Authority

These amendments to the Health Code are promulgated pursuant to sections 558 and 1043 of the Charter. Sections 558(b) and (c) of the Charter empower the Board to amend the Health Code and to include in the Health Code all matters to which the authority of the New York City Department of Health and Mental Hygiene (the “Department”) extends. Section 1043 of the Charter grants the Department rule-making authority. The amendment is also made pursuant to the Department’s historic power to supervise the control of communicable disease in New York City.

Background

The Charter provides the Department with broad jurisdiction to protect and promote the health of all New Yorkers. The control of communicable disease is a core public health function. At its meeting on September 13, 2012, the Board of Health voted to amend Article 181 by adding a requirement that, prior to a circumcision involving direct oral suction (“DOS”) of infants less than 60 days of age, the person performing the circumcision obtain the written consent of a parent. In the consent, the parent acknowledges that he or she is aware that the Department recommends DOS, also known as *metzitzah b'peh*, not be performed because of the risk of brain damage and death.

Circumcisions that include DOS involve direct contact between the mouth of the practitioner designated by the religious community to perform a circumcision, known as a *mohel*, and the infant’s circumcision wound. The opposition of some members of the Orthodox Jewish community who practice DOS has made enforcement of the consent requirement difficult. Since the provision went into effect, there have been six cases of herpes simplex-1 (HSV-1) infection reported in infants following DOS in New York City, including four cases reported in 2014. In two of these six cases, the *mohel* who was associated with the case was identified in the course of the Department’s case investigation, and a signed consent form was provided by the *mohel* in one of these two cases. The limited effectiveness of the consent requirement at this time prompted the department to consider alternative approaches to address this problem.

In February, 2015, the Mayor announced a new strategy to address this problem. As part of this approach, the Department will work cooperatively with leaders of the Orthodox Jewish community to educate parents about the risks of DOS. These educational efforts will include working with hospitals

throughout the City to distribute educational materials about the risks of DOS to the parents of all newborn infant boys, as well as making this information available at other health care settings, such as obstetric and pediatric practices. These materials, which include a Department telephone number for parents who may have questions, have been translated into Yiddish and are being distributed at hospitals and medical offices that service communities where DOS is practiced. The Department's educational initiative is more likely to succeed if the Department can restore a strong relationship with these communities. Accordingly, the Board is repealing section 181.21 of the Health Code.

The resolution is as follows:

Note- matter in [] brackets to be deleted;

Matter underlined is new.

RESOLVED, that section 181.21 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, regarding consent for direct oral suction as part of a circumcision, is hereby REPEALED, and explanatory notes be printed to read as follows:

Notes: §181.21 (Consent for direct oral suction as part of a circumcision) was repealed by resolution adopted by the Board of Health at its meeting on September 9, 2015.

RESOLVED, that the Table of Section Headings of Article 181 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York be amended, to be printed together with explanatory notes, to read as follows:

ARTICLE 181

PROTECTION OF PUBLIC HEALTH GENERALLY

§181.01 **Definitions.**

* * *

[§181.21 **Consent for direct oral suction as part of a circumcision.]**

Notes: Article 181 was amended by resolution adopted by the Board of Health at its September 9, 2015 meeting, repealing §181.21 (Consent for direct oral suction as part of a circumcision).