

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

BOARD OF HEALTH

NOTICE OF INTENTION  
TO AMEND ARTICLE 11 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 11 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 A.M. to 12 P.M. ON THURSDAY, FEBRUARY 4, 2010 IN ROOM 225 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. WEDNESDAY, FEBRUARY 3, 2010. 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 JANUARY 21, 2010.

REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 12:00 P.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., TUESDAY, FEBRUARY 3, 2010. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED. COMMENTS RECEIVED AFTER FEBRUARY 4, 2010 WILL BE CONSIDERED TO THE EXTENT POSSIBLE.

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 New York City Health Code (the “Health Code”) are promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (the “Charter”). Section 556 of the Charter provides the Department of Health and Mental Hygiene (the “Department”) with jurisdiction to regulate all matters affecting the health in the city of New York. Section 558(b) and (c) of the Charter empower the Board of Health (the “Board”) 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 rulemaking powers.

## STATEMENT OF BASIS AND PURPOSE

The Board of Health, at its meeting on September 17, 2008 adopted a resolution repealing and reenacting Article 11 of the New York City Health Code (Reportable Diseases and Conditions). The Department requests that the Board of Health amend § 11.15 (Control Measures; duty to exclude; exclusion orders) of Article 11 of the Health Code to remove the requirement that individuals who are enrollees or attendees under the age of six or staff members in contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or health care practitioners providing oral care who are diagnosed with *campylobacteriosis*, *salmonellosis* (other than typhoid) or *yersiniosis* be excluded until two negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department.

The applicable exclusion provisions in §11.15 cause undue burden and economic hardship to families and health care practitioners where routine hygiene and rapid implementation of improved infection control practices are sufficient to prevent transmission of *campylobacteriosis*, *salmonellosis* (other than typhoid) and *yersiniosis*. For example, children with special needs, such as those with developmental delays or autism, may be needlessly deprived of educational therapy and the loss of workdays among health care practitioners will cause an undue burden in settings where there is a low risk of transmission. However, exclusion is warranted for those listed in §11.15(a) who contract gastrointestinal infections such as *Shigella*, hepatitis A, or *E. Coli* O157:H7 as the infectious dose for these pathogens is low and outbreaks associated with them in daycare settings are well documented in medical literature.

The Department will require that individuals diagnosed with *campylobacteriosis*, *salmonellosis* (other than typhoid) or *yersiniosis* who are enrollees or attendees under the age of six or staff members in contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or health care practitioners providing oral care to those diagnosed with these conditions be excluded only until they are asymptomatic, unless they are determined by the Department to represent a continuing risk to others. In addition, the exclusion requirements pertaining to food handlers will remain unchanged.

## References:

Buchwald DS, Blaser MJ. A Review of Human Salmonellosis: II. Duration of Excretion Following Infection with Nontyphi *Salmonella*. *Reviews of Infectious Diseases* 1984;6:345-356.

Pickering LK, Bartlett AV, Woodward WE. Acute Infectious Diarrhea Among Children in Day Care: Epidemiology and Control. *Reviews of Infectious Diseases*; 1986;8:539-547.

Pickering LK, Baker CJ, Long SS, McMillan JA eds. Red Book 2006 Report of the Committee on Infectious Diseases. 27 ed. Elk Grove Village, IL. American Academy of Pediatrics, 2006 pp. 130-136.

### **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 §11.15(a) of Article 11 (Reportable Diseases and Conditions) 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 seventeenth of September, two thousand eight, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

#### **§11.15 Control measures; duty to exclude; exclusion orders.**

(a) Any individual required to be isolated pursuant to provisions of this Article, and certain cases, suspect cases, contacts and carriers, as indicated in this subdivision, shall be excluded by the operator, employer or person in charge of the applicable institution, facility or place as set forth in this subdivision.

(1) A case or carrier of the following diseases [listed in this paragraph] who is a food handler[; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care;] shall be excluded until two negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided that, if the [patient] individual has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Campylobacteriosis

Cholera

*E. coli* 0157:H7 and other Shiga toxin producing *Escherichia coli* (STEC) infections

Salmonellosis (other than typhoid)

Shigellosis

Yersiniosis

(2) A case or carrier of the following diseases who is an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care shall be excluded until two negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided that, if the individual has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Cholera

*E. coli* 015:H7 and other Shiga toxin producing *Escherichia coli* (STEC) infections

Shigellosis

(3) A case or carrier of the following diseases who is an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner who provides oral care, shall be excluded until the individual no longer has symptoms, unless the Department determines that there is a continuing risk to others:

Campylobacteriosis

Salmonellosis (other than typhoid)

Yersiniosis

[2)] (4) A case or carrier of the diseases listed in this paragraph who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care, shall be excluded until three negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided, however, that, if the [patient] individual has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Amebiasis

Cryptosporidiosis

Giardiasis

[3)] (5) A case or household contact of Hepatitis A who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care

practitioner in a hospital or medical facility who provides oral care, shall be excluded until determined by the Department to no longer be a risk to others.

Notes:

Subdivision (a) of §11.15 was amended, and its paragraphs relettered, by resolution adopted on XXX to reflect new exclusion requirements pertaining to a case or carrier of campylobacteriosis, salmonellosis (other than typhoid) and yersiniosis who is an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care.

Article 11 amend Intent.DOC