

## New York State Tightens Requirements for Medical Exemptions to Vaccinations

Since the repeal of the religious exemption to vaccinations on June 13, 2019, many school districts are reporting an increase in the requests for medical exemptions. However, the Department of Health recently promulgated new emergency regulations that heighten the standard for what is required in order for a student to receive a medical exemption. It is important that school leaders are aware of these standards when presented with medical exemptions to vaccinations in order to comply with the law, while still meeting the needs of all students.

For more than 50 years, New York State permitted parents to obtain an exemption from vaccinations based on either medical or religious considerations. However, in June 2019, the religious exemption was repealed.<sup>1</sup> In California, when the religious exemption to vaccinations was repealed, no change was made to the medical exemption requirements and, quite possibly as a result, the number of students seeking medical exemptions more than tripled. New York State is seeking to avoid medical exemptions being issued unjustifiably, while ensuring students who truly need such exemptions can obtain them, by providing clear, narrow requirements for what constitutes a medical exemption.

Previously, physicians in New York only needed to submit a signed written statement for a student to qualify for a medical exemption. The emergency regulations issued by the Department of Health on August 16, 2019, which went into immediate effect, require a separate medical exemption for each specific vaccination.<sup>2</sup> The regulations only allow for a medical exemption if a specific immunization has been determined by a physician to be detrimental to a student's health. A written statement by a physician will no longer suffice; government approved forms must be filled out and appropriately submitted. Specifically, in order for a student to qualify for a medical exemption, a provider must submit two forms. First, within 14 days of an in-person clinical interaction that occurs on what would have been the due date for the administration of the student's age-appropriate immunization, the physician must submit patient information, including the reason the immunization may be detrimental to the student's health, to the statewide Immunization Information System.

The regulations specify that "may be detrimental to the child's health" means that a physician has determined a child has a medical contraindication or precaution to a specific immunization. The determination that a vaccination is detrimental to a child's health must be consistent with the Advisory Committee on Immunization Practice's guidance or a nationally recognized evidentiary based standard of care.

Secondly, a medical exemption form approved by the New York State Department of Health or New York City Department of Education, must be signed and completed by a physician licensed to practice medicine in the State of New York. A principal or school leader may also require additional information supporting the exemption. Any medical exemption that is given must be reissued annually.

<sup>1</sup> New York Public Health Law 2164(6); See Bond's Article on the repeal of the religious exemption [here](#).

<sup>2</sup> [School Immunization Requirement Emergency Regulation](#) (August 16, 2019).

The New York State Department of Education, the Department of Health and the Office of Children and Family Services demonstrated that they are serious about enforcing the religious and medical exemption rules by issuing guidance on August 20, 2019, clarifying that any student who is unvaccinated and does not have a valid medical exemption may not attend school.<sup>3</sup> Parents must still ensure students of a compulsory age receive schooling, and so must homeschool their children subject to an approved home schooling plan if they do not meet the vaccination requirements within the 14 day grace period.<sup>4</sup>

In addition to public schools, these regulations apply to private schools, including parochial schools, pre-schools, day cares and all physicians throughout New York State.

If you have any questions about this new law or have a situation that raises additional questions, please contact [Sara M. Richmond](#), Megan K. Thomas or any attorney at Bond with whom you are regularly in contact.

<sup>3</sup> [Vaccination Requirements FAQ](#) (August 20, 2019).

<sup>4</sup> This grace period may be extended to a period of no more than 30 days under certain circumstances where a student is transferring from out-of-state or another country or where it can be shown that the student received at least the first dose in each required immunization series.



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