

MEDICAL SOCIETY of the STATE OF NEW YORK

Morris Auster, Esq.
Senior Vice President /
Chief Legislative Counsel

Division of Governmental Affairs
MEMORANDUM IN SUPPORT

IN ASSEMBLY HEALTH COMMITTEE

A. 2371 (DINOWITZ)

IN SENATE HEALTH COMMITTEE

S. 2994 (HOYLMAN)

AN ACT to repeal subdivision 9 of section 2164 of the public health law, relating to exemption from vaccination due to religious beliefs

This measure would repeal the exemption from vaccination due to religious beliefs. **The Medical Society of the State of New York supports this measure.**

In 1905, the Supreme Court ruled that a state can mandate vaccines and accompany those vaccine mandates with a criminal fine for those not in compliance. More broadly, the court ruled that the state can impose “reasonable regulations” to protect the public health, even when such regulations interfere with individual rights. The case – *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), has since been a staple of public health law. Throughout the years, there have been challenges to this case, but the court continues to maintain this precedent.

In 2014, California, faced with a significant measles outbreak in Disneyland, and subsequently throughout the state, eliminated its religious and philosophical exemptions. In 2016, a California State Appeals Court said that the state did not violate freedom of religion or the right to an education when it required virtually all public and private school students to be vaccinated against contagious illnesses. “Compulsory immunization has long been recognized as the gold standard for preventing the spread of contagious diseases,” said the Second District Court of Appeal in Los Angeles. Mississippi and West Virginia have followed suit and eliminated the religious exemption. MSSNY, in 2015, supported the removal of all non-medical exemptions from the New York State Public Health Law.

Vaccination is a valid measure to protect public health and there is solid scientific evidence that compulsory vaccination prevents outbreaks of diseases, and that community or herd immunity is reduced when large numbers of children are exempted, leading to the reappearance of illnesses such as measles. New York State is in the midst of its worst measles outbreak since the disease was declared eliminated in the United States in 2000. Since the fall of 2018, New York State has had 329 measles cases in Brooklyn and Queens, 186 cases in Rockland County, 17 in Orange County, 10 in Westchester County and two in Sullivan County. Nationally, there have been 700 cases from January 1 to April 26,, 2019 in 22 states and the Centers for Disease Control and Prevention has indicated that the US has now exceed the 2014 measles outbreak of 667 cases.

Measles is highly contagious, is spread through the air when an infected person sneezes or coughs. A person is contagious four days before the rash appears and for four days after the rash appears. The virus remains active and contagious in the air and

on surfaces for up to two hours. Symptoms usually appear 10 to 12 days after exposure to the virus. In some cases, symptoms may start as early as seven days or as late as 21 days. Early symptoms include: fever, cough, runny nose, red, watery eyes and three to five days after initial symptoms, a rash of red spots appears on the face that then spreads over the entire body. Anyone can become infected with measles, but the virus is more severe in infants, pregnant women and people whose immune systems are weak. Complications of measles include diarrhea, ear infections, pneumonia (infection of the lungs), encephalitis (swelling of the brain), premature birth or low-birth-weight in pregnancy, and death.

Immunization is the best way to prevent measles. Anyone who has received two doses of a measles-containing vaccine is considered immune and highly unlikely to get measles, and anyone born after January 1, 1957, who has not received two doses of a measles-containing vaccine, or who does not have a blood test proving that they are already immune to measles, should receive two doses of the MMR vaccine.

New York State and the public health community must seek to maintain its hard-won immunization gains but also aim to do more and to do things better—an important step is the elimination of the religious exemption from the public health law.

For all the reasons cited above, the Medical Society of the State of New York strongly supports this measure and urges its enactment.

Respectfully submitted,

Division of Governmental Affairs

**pfc/support
4/29/19**