



Agudath
Israel
of America
אגודת ישראל באמריקה

September 4, 2012

BY HAND & E-MAIL

Honorable Michael R. Bloomberg
City Hall
New York, NY 10007

Dear Mr. Mayor:

As you know, the New York City Board of Health is set to vote on September 13 on a proposed new regulation with respect to the institution of *bris milah*, ritual circumcision – specifically, one that would require written consent from parents for *metzitzah b'peh*, direct oral suction. To the best of our knowledge, this would represent the first time ever that an aspect of *bris milah* would be regulated by a governmental body in the United States.

As you probably also know, the proposed regulation has generated considerable consternation in many circles of the Orthodox Jewish community. There is good cause for such consternation.

For one thing, there is widespread concern that the City's larger goal here is to ban the practice of *metzitzah b'peh* outright. Unfortunately, Mr. Mayor, you contributed substantially to that concern when you stated at a recent press conference "*There are certain practices that doctors say are not safe, and we will not permit those practices to the extent that we can stop them. You don't have a right to put any child's life in danger, and this clearly does.*" It would appear that the proposed new regulation, along with the Health Department's various other recent statements and publications recommending against the practice of *metzitzah b'peh*, are merely the first steps in an effort that may lead to an outright ban on *metzitzah b'peh*. While not all Orthodox Jewish religious authorities require *metzitzah b'peh*, many do – which means, for the tens of thousands of families in New York City who follow the view that the practice is an integral part of *bris milah*, that the City appears to be laying the foundation for a law that effectively bans Jewish ritual circumcision.

There is also concern that *metzitzah b'peh* is not the only aspect of *bris milah* the City may have in its regulatory cross-hairs. Here again, the concern is attributable in substantial part to on-the-record statements made by city officials – in this case, by the Health Department's recently published "Before the Bris" pamphlet, which is being distributed in city hospitals to parents of newborn infant boys, in which the Department declares that the *mohel* performing the *bris* should wear surgical gloves. While Jewish law clearly requires a *mohel* to take all appropriate steps to ensure that the *bris* is preformed in a hygienic manner, many segments of the Jewish community follow a religious tradition that the *mohel* may not wear gloves when performing the *bris*.

THE RABBI MOSHE SHERER NATIONAL HEADQUARTERS

42 Broadway • New York, NY 10004 • 212-797-9000 • Fax: 646-254-1600

These concerns are further fueled by recent high profile efforts in this country and around the world that seek to ban infant circumcision altogether, even when performed for religious reasons. The logic underlying the City's current effort to regulate *metzitzah b'peh* could easily be extended, by those who seek to promote a broader anti-circumcision agenda, to regulate or even prohibit the entire practice of *bris milah*.

There is, moreover, considerable skepticism in the community about the Health Department's conclusion that *metzitzah b'peh* carries such significant risk of dangerous infection that it warrants an official recommendation and aggressive governmental campaign against the practice. The skepticism seems well-founded. Serious questions have been raised about the circumstances surrounding several of the cases the Department has pointed to in support of its thesis that *metzitzah b'peh* poses an unacceptably high level of risk, and more generally about the statistical accuracy of the Department's estimate of risk. And, even the level of risk as estimated by the Department – one case of HSV-1 transmission out of every 4,098 circumcisions involving *metzitzah b'peh* – would appear to be a significantly lower rate than that associated with many other common practices and activities (including those involving minors) that have not merited Health Department opprobrium or regulation.

The bottom line, Mr. Mayor, is that the City's current effort to discourage and regulate the practice of *metzitzah b'peh* has generated concern, chagrin and even outrage in many parts of the Orthodox Jewish community. If the ultimate goal of that effort is to safeguard the health and well-being of our children, that goal is undermined dramatically by the community's sense that the City's health officials are our adversaries, not our allies.

Compounding the problem is the fact that the Health Department has acted unilaterally in pursuing its agenda. It informed community leaders of its decision to issue an official statement recommending against *metzitzah b'peh*, and to publish its "Before the Bris" brochure, only on the very day the statement was issued and the brochure published. It gave us exactly one day's notice of its plan to propose a new regulation requiring written consent. It allowed the community no opportunity to review drafts of its statement, brochure or proposed regulation, or to have any meaningful input into the process. And while one or two high level meetings with members of your administration have taken place over the past several weeks, there has been no meaningful response to our plea to establish a more collaborative process. Furthermore, to our surprise and dismay, despite the urgency and gravity of the issue at hand, and despite your sterling track record in working with the Orthodox Jewish community over the years, you have not made yourself available to meet directly with our community leaders.

We respectfully reiterate our request to meet directly with you, Mr. Mayor. We also respectfully ask that the Board of Health's vote on the proposed regulation be adjourned from September 13 – mere days before the Jewish High Holiday season, by the way – until such time as we have had an opportunity to engage Health Department officials in serious substantive dialogue regarding the sensitive issues at hand.

Such dialogue can work. Indeed, it already did work. In 2006, when the issue of *metzitzah b'peh* was most recently considered, the New York State Health Department convened meetings with doctors and rabbis from throughout the Orthodox Jewish community, at which serious discussions took place as to how to best protect children from infection while at the same time respecting those who believed that *metzitzah b'peh* is an essential part of *bris milah*. The result was the adoption of a detailed "circumcision protocol regarding the prevention of neonatal herpes transmission" that was accepted and signed by then-Commissioner Novello and other top state health officials, and by many prominent rabbis representing the spectrum of the Orthodox Jewish community. The protocol requires that parents be informed of the risks of neonatal herpes and of the warning signs of this infection. It spells out specific sanitary procedures to be performed by a *mohel* both prior to and subsequent to the performance of *metzitzah b'peh*. It requires extensive follow-up testing of the infant and the *mohel* and others in cases where herpes has been discovered.

We submit that the 2006 experience is a good example of what can be achieved when a government health department seeks to work with a community rather than simply act alone and promulgate regulations affecting a religious practice. Obviously, if we succeed in arriving at a mutually agreed upon protocol along the lines of the 2006 agreement, it will be incumbent upon all sides to work to ensure that the protocol is properly implemented. We at Agudath Israel of America pledge that we will do our part to accomplish that goal. We are optimistic that a display of good will on the part of the city's health officials will be reciprocated in kind.

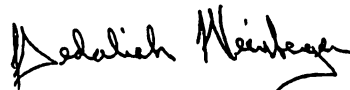
Our bottom line entreaty to you, Mr. Mayor, is to join us on the path of peaceful coexistence. We appeal to you, at this eleventh hour, to embrace communication over confrontation, cooperation over conflict, and good will over mutual recriminations.

Many thanks for your consideration of our plea. We look forward to hearing back from you shortly.

Sincerely,



Rabbi David Zwiebel
Executive Vice President



Rabbi Gedaliah Weinberger
Chairman of the Board

DZ/GW/aa

cc: Commissioner Thomas Farley