

[Second Reprint]

ASSEMBLY, No. 3818

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Co-Sponsored by:

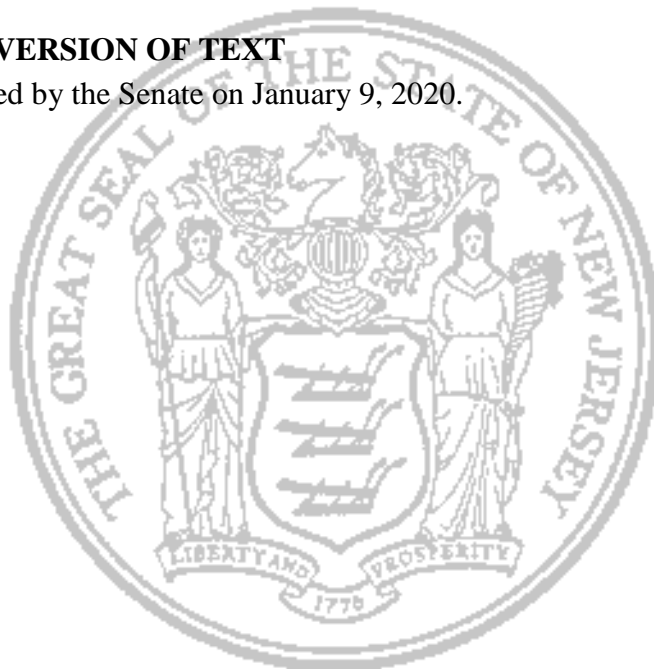
Assemblywoman Tucker

SYNOPSIS

Clarifies statutory exemptions from mandatory immunization requirements for child care center and school attendance.

CURRENT VERSION OF TEXT

As amended by the Senate on January 9, 2020.



(Sponsorship Updated As Of: 12/17/2019)

1 AN ACT concerning exemptions from mandatory ²[immunizations
2 for students] immunization requirements² and amending
3 ²[P.L.1974, c.150, P.L.2002, c.58, and P.L.2003, c.284] various
4 parts of the statutory law².

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. Section 6 of P.L.1974, c.150 (C.26:1A-9.1) is amended to
10 read as follows:

11 6. a. Provisions in the State Sanitary Code in implementation
12 of **[this act]** P.L.1947, c.177 (C.26:1A-1 et seq.), or provisions
13 otherwise set forth in statute or regulation, which require the
14 immunization of²children in a public or private licensed child care
15 center, or²students in a²public or private²preschool program,²[or
16 at an]²elementary or secondary school^{2,2} or²[an]²institution of
17 higher education, shall provide for an exemption [for pupils] from
18 such mandatory immunization [if the parent or guardian of the
19 pupil objects thereto in a written statement signed by the parent or
20 guardian upon the ground that the proposed immunization interferes
21 with the free exercise of the pupil's religious rights. This
22 exemption] based upon ^{2,2}¹[one of the following:

23 (1)¹²(1)² a ²[written]²statement submitted²using a standard
24 form as shall be prescribed by the Commissioner of Health,² to the
25 public or private child care center,² preschool program, elementary
26 or secondary school, or institution of higher education, as
27 applicable, by a licensed physician, doctor of osteopathy,² or²
28 advanced practice nurse²[, or physician assistant indicating] that
29 includes: (1) the professional's full name and address, and the
30 national provider identifier of the professional or the professional's
31 collaborating physician; and (2) a statement² that the vaccine is
32 medically contraindicated for a specific period of time and the
33 reasons for the medical contraindication,²[based upon] which shall
34 be² valid medical reasons²[as determined by regulation of the
35 Commissioner of Health, which] that are consistent with guidelines
36 issued by the Advisory Committee on Immunization Practices in the
37 federal Centers for Disease Control and Prevention. A medical
38 exemption submitted pursuant to this subsection may be reviewed
39 and subject to approval by the physician employed by or consulting
40 for the local or county board of health. A medical exemption
41 approved pursuant to this subsection² shall exempt the ²child or²
42 student ², as applicable,² from the vaccination for the stated period
43 of time ¹[; or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted January 31, 2019.

²Senate floor amendments adopted January 9, 2020.

1 (2) documentation, as set forth in subsection b. of this section,
2 which is submitted to the preschool program, elementary or
3 secondary school, or institution of higher education, as applicable,
4 by the student, or the student's parent or guardian if the student is a
5 minor, explaining how the administration of the vaccine conflicts
6 with the bona fide religious tenets or practices of the student, or the
7 parent or guardian, as appropriate; except that: a general
8 philosophical or moral objection to the vaccination shall not be
9 sufficient for an exemption on religious grounds; and an exemption
10 on religious grounds may be suspended by the [State]
11 Commissioner of Health during the existence of an emergency as
12 determined by the [State Commissioner of Health] commissioner¹
13 ²; or

14 (2) documentation establishing that the Department of Health
15 has approved an exemption for the child or student on the grounds
16 that a sibling of the child or student experienced a vaccine injury.
17 A request for approval of a sibling vaccine injury exemption
18 pursuant to this paragraph shall be submitted to the Department of
19 Health by the child or student, or by the child's or student's parent
20 or guardian if the child or student is a minor, on forms and in
21 manner as shall be prescribed by the Commissioner of Health by
22 regulation, and shall include documentation of a final determination
23 of vaccine injury issued through the Vaccine Injury Compensation
24 Program administered by the Health Resources and Services
25 Administration in the United States Department of Health and
26 Human Services or a final judgment issued by a court of competent
27 jurisdiction that includes a finding of vaccine injury.
28 Documentation of the department's approval of a sibling vaccine
29 injury exemption pursuant to this paragraph shall be submitted to
30 the public or private childcare center, elementary or secondary
31 school, or institution of higher education, as applicable, by the child
32 or student, or by the child's or student's parent or guardian if the
33 child or student is a minor. County and local boards of health shall
34 have the authority to audit exemptions approved pursuant to this
35 subsection. Subject to the provisions of subsection i. of section 4 of
36 P.L.2004, c.138 (C.26:4-134), the professional issuing the statement
37 shall additionally enter the statement into the child's or student's
38 record in the New Jersey Immunization Information System
39 established pursuant to the P.L.2004, c.138 (C.26:4-131 et seq.)².

40 b. ¹[The documentation required pursuant to paragraph (2) of
41 subsection a. of this section shall include a written statement, which
42 shall be notarized, signed, and sworn by the person submitting the
43 statement, and which shall include:

44 (1) an explanation of the nature of the person's religious tenet or
45 practice that is implicated by the vaccination and how
46 administration of the vaccine would violate, contradict, or otherwise
47 be inconsistent with that tenet or practice;

1 (2) information that indicates that the religious tenet or practice
2 is consistently held by the person, which may include, but need not
3 be limited to, expression of the person's intent to decline any
4 vaccination;

5 (3) a statement that the religious tenet or practice is not solely
6 an expression of that person's:

7 (a) political, sociological, philosophical, or moral views; or

8 (b) concerns related to the safety or efficacy of the vaccination;
9 and

10 (c) a statement that the person understands the risks and benefits
11 of vaccination to the student and the public health and
12 acknowledges that the student may be excluded from attendance at
13 the student's preschool, school, or institution of higher education, as
14 applicable, in the event of the occurrence of a communicable
15 disease or condition or threat of a communicable disease or
16 condition, which in the opinion of the Commissioner of
17 Commissioner of Health requires such exclusion from attendance of
18 unvaccinated students.

19 c.]¹ ²[A] Except as provided in subsection c. of this section, a
20 public or private child care center,² preschool program, elementary
21 or secondary school, or institution of higher education shall not
22 exempt a ²child or² student ², as applicable² from a mandatory
23 immunization unless the ²child or² student, or the ²child's or²
24 student's parent or guardian if the ²child or² student is a minor,
25 complies with all of the applicable requirements set forth in
26 '[subsections] subsection¹ a. ¹[and b.]¹ of this section.

27 '[d.] c.¹ ²A nonpublic child care center, preschool program,
28 elementary or secondary school, or institution of higher education
29 may adopt a policy authorizing the admission of children or
30 students, as applicable, who are not in full compliance with
31 mandatory immunization requirements and who do not meet the
32 requirements set forth in subsection a. of this section for an
33 exemption from such requirements, provided that:

34 (1) the child care center, preschool program, school, or
35 institution of higher education requires each child or student, or the
36 child's or student's parent or guardian, if the child or student is a
37 minor, who is enrolled in the child care center, preschool program,
38 school, or institution of higher education to sign an
39 acknowledgement form, at the time the child or student is enrolled
40 in the child care center, preschool program, school, or institution of
41 higher education, which acknowledgement form shall:

42 (a) set forth the child care center's, preschool program's,
43 school's, or institution of higher education's policy with regard to
44 admitting children or students, as applicable, who are not in full
45 compliance with mandatory immunization requirements; and

46 (b) indicate the immunization rates for the child care center,
47 preschool program, school, or institution of higher education for the
48 prior academic year;

1 (2) the child or student, or the child's or student's parent or
2 guardian if the child or student is a minor, who is not in full
3 compliance with mandatory immunization requirements and who
4 does not meet the requirements for an exemption under subsection
5 a. of this section provides written notice to the child care center,
6 preschool program, school, or institution of higher education
7 identifying which immunization requirements the child or student is
8 not in compliance with, and additionally signs a form that states the
9 child or student, or the child's or student's parent or guardian, as
10 applicable, understands the risks and benefits of vaccination to the
11 child or student and the public health, and acknowledges that the
12 child or student may be excluded from attendance in the event of
13 the occurrence of a communicable disease or condition or threat of
14 a communicable disease or condition, which in the opinion of the
15 Commissioner of Health requires such exclusion from attendance of
16 unvaccinated children or students;

17 (3) the child care center, preschool program, school, or
18 institution of higher education prominently posts its policy with
19 regard to admitting children or students, as applicable, who are not
20 in full compliance with mandatory immunization requirements, and
21 the immunization rates for the child care center, preschool program,
22 school, or institution of higher education for the prior academic
23 year, at each entrance to the child care center, preschool, school, or
24 institution of higher education; and

25 (4) the child care center, preschool program, school, or
26 institution of higher education shall retain the authority to exclude a
27 child or student from attendance in the event of the occurrence of a
28 communicable disease or condition or threat of a communicable
29 disease or condition which, in the opinion of the Commissioner of
30 Health, requires such exclusion from attendance of unvaccinated
31 children or students.

32 d.² The Commissioner of Health, pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.), shall adopt rules and regulations to effectuate the purposes of
35 this section ²including requirements concerning the format of
36 acknowledgement forms used for the purposes of complying with
37 subsection c. of this section² ; except that, notwithstanding any
38 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
39 the commissioner may adopt, immediately upon filing with the
40 Office of Administrative Law, such regulations as the commissioner
41 deems necessary to implement the provisions of this section, which
42 shall be effective for a period not to exceed six months and may
43 thereafter be amended, adopted, or re-adopted by the commissioner
44 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-
45 1 et seq.).

46 (cf: P.L.1974, c.150, s.6)

1 2. Section 4 of P.L.2002, c.58 (C.18A:61D-10) is amended to
2 read as follows:

3 4. A student shall not be required to receive a vaccination
4 pursuant to section 2 or 3 of **【**this act based upon one of the
5 following:

6 a. a written statement submitted to the secondary school or
7 institution of higher education, as applicable, by a licensed
8 physician indicating that the vaccine is medically contraindicated
9 for a specific period of time and the reasons for the medical
10 contraindication, based upon valid medical reasons as determined
11 by regulation of the Commissioner of Health and Senior Services,
12 which shall exempt the student from the vaccination for the stated
13 period of time; or

14 b. a written statement submitted to the secondary school or
15 institution of higher education, as applicable, by the student, or the
16 student's parent or guardian if the student is a minor, explaining
17 how the administration of the vaccine conflicts with the bona fide
18 religious tenets or practices of the student, or the parent or guardian,
19 as appropriate; except that a general philosophical or moral
20 objection to the vaccination shall not be sufficient for an exemption
21 on religious grounds**】** P.L.2002, c.58 (C.18A:61D-9 or C.18A:40-
22 21.1) if the student qualifies for an exemption as provided in section
23 6 of P.L.1974, c.150 (C.26:1A-9.1).

24 (cf: P.L.2002, c.58, s.4)

25

26 3. Section 3 of P.L.2003, c.284 (C.18A:62-15.2) is amended to
27 read as follows:

28 3. a. A student shall not be required to receive a vaccination
29 pursuant to subsection a. of section 2 of **【**this act based upon one of
30 the following:

31 (1) a written statement submitted to the institution of higher
32 education by a licensed physician indicating that the vaccine is
33 medically contraindicated for a specific period of time and the
34 reasons for the medical contraindication, based upon valid medical
35 reasons as determined by regulation of the Commissioner of Health
36 and Senior Services, which shall exempt the student from the
37 vaccination for the stated period of time; or

38 (2) a written statement submitted to the institution of higher
39 education by the student, or the student's parent or guardian if the
40 student is a minor, explaining how the administration of the vaccine
41 conflicts with the bona fide religious tenets or practices of the
42 student, or the parent or guardian, as appropriate; except that a
43 general philosophical or moral objection to the vaccination shall not
44 be sufficient for an exemption on religious grounds**】** P.L.2003,
45 c.284 (C.18A:62-15.1) if the student qualifies for an exemption as
46 provided in section 6 of P.L.1974, c.170 (C.26:1A-9.1).

47 b. In the event of an actual or threatened outbreak of meningitis
48 at a public or private institution of higher education in this State,

1 the institution may exclude from attendance a student who has been
2 exempted from the vaccination requirement of this act pursuant to
3 subsection a. of this section, as determined by the Commissioner of
4 Health **and Senior Services**.

5 (cf: P.L.2003, c.284, s.3)

6
7 ²4. Section 4 of P.L.2004, c.138 (C.26:4-134) is amended to
8 read as follows:

9 4. a. There is established a Statewide automated and electronic
10 immunization registry, to be designated as the New Jersey
11 Immunization Information System, in the Department of Health.
12 The registry shall be designed to serve as a single repository of
13 immunization records to aid, coordinate, and help promote effective
14 and cost-efficient disease screening, prevention, and control efforts
15 in the State.

16 b. A newborn infant in New Jersey, who is born on or after
17 January 1, 1998, shall be enrolled in the registry immediately
18 following birth unless the parent or legal guardian of the infant
19 provides a written request to not participate in the registry.

20 A child born prior to January 1, 1998 may be enrolled in the
21 registry at the parent's or legal guardian's written request.

22 c. Access to the information in the registry shall be limited to:
23 health care providers, schools, colleges, licensed child care centers,
24 and public agencies, and private organizations as determined by
25 regulation of the commissioner. A registrant, or the registrant's
26 parent or legal guardian if the registrant is a minor, shall have
27 access to the registrant's immunization and other preventive health
28 screening information in the registry.

29 d. The information contained in the registry shall be used for
30 **[the following]** purposes including, but not limited to:

31 (1) to help ensure that registrants receive all recommended
32 immunizations in a timely manner by providing access to the
33 registrants' immunization records;

34 (2) to help improve immunization rates by providing notice to
35 registrants of overdue or upcoming immunizations; and

36 (3) to help control communicable diseases by assisting in the
37 identification of persons who require immediate immunization in
38 the event of a vaccine-preventable disease outbreak.

39 e. The authentic immunization and other preventive health
40 screening record of a child, which shall consist of a paper or
41 electronic copy of the registry entry that is a true and accurate
42 representation of the information contained therein, obtained from
43 the registry shall be accepted as a valid immunization and
44 preventive health screening record of the registrant for the purpose
45 of meeting immunization and preventive health screening
46 documentation requirements for admission to a school, college, or
47 licensed child care center.

1 f. A health care provider shall not discriminate in any way
2 against a person solely because the person elects not to participate
3 in the registry.

4 g. An authorized user granted access as provided in subsection
5 c. of this section shall only access information in the registry on a
6 specific patient or client who is presently receiving services, is
7 under the user's care or is within the applicable governmental health
8 authority's jurisdiction.

9 h. **[**An agency, organization, or other entity authorized to
10 access information in the registry shall not use any report made by a
11 health care provider pursuant to this act in any punitive manner
12 against the provider.**]** (deleted by amendment, P.L. _____, c. _____)
13 (pending before the Legislature as this bill)

14 i. A record of an exemption from a mandatory immunization
15 on the grounds of medical contraindication shall be included in the
16 registry along with supporting documentation. Within one year
17 after the effective date of P.L. _____, c. (C. _____) (pending before the
18 Legislature as this bill), the registry shall be updated with the
19 capability to allow for the inclusion in the registry of relevant forms
20 provided by the Department of Health, including the form or
21 equivalent information included in the form prescribed by the
22 Commissioner of Health upon which a health care professional
23 provides the reasons for the issuance of a medical exemption to a
24 mandatory immunization, including the name, address, and national
25 provider identifier of the health care professional responsible for
26 completing the prescribed form.

27 Within one year after the effective date of P.L. _____, c. (C. _____)
28 (pending before the Legislature as this bill), the registry shall be
29 updated with the capability to allow for the generation of a printable
30 report of the information placed in the registry as required pursuant
31 to this subsection.

32 **[i.]** j. The commissioner, in consultation with the Public Health
33 Council, shall adopt rules and regulations, pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to effectuate the purposes of this act, including, but not
36 limited to:

37 (1) the establishment and maintenance of the registry;

38 (2) the methods for submitting, and the content of, reports of
39 immunizations to the registry, for which purpose the commissioner
40 shall provide, to the maximum extent practicable, for reporting
41 options to facilitate compliance with the requirements of subsection
42 b. of this section;

43 (3) procedures for the birth hospital of a newborn infant or
44 health care provider, as applicable, to inform the parent or legal
45 guardian of a newborn infant or minor of the purpose of the registry
46 and its potential uses by parties having authorized access to registry
47 information, and the content of that information;

1 (4) procedures for a registrant, or the registrant's parent or legal
2 guardian if the registrant is a minor, to review and correct
3 information contained in the registry;

4 (5) procedures for the parent or legal guardian of a newborn
5 infant or minor, or a person over 18 years of age, to request to not
6 participate in the registry at any time and to remove or inactivate
7 information from the registry;

8 (6) limits on, and methods of, access to the registry by those
9 authorized pursuant to subsection c. of this section;

10 (7) procedures for health insurers to obtain immunization
11 information from the registry concerning only their covered
12 persons, as well as summary statistics, which information or
13 statistics shall not be used or disclosed for any other purpose than
14 to:

15 (a) improve patient care;

16 (b) provide quality assurance to employers purchasing group
17 coverage and to health care providers;

18 (c) improve outreach and education efforts with respect to their
19 covered persons and health care providers; and

20 (d) monitor and improve quality of care standards as developed
21 by professional organizations, accreditation agencies and
22 government agencies in collaboration with the department; and

23 (8) procedures for the department to disseminate statistical
24 information and supporting commentary.²

25 (cf: P.L.2012, c.17, s.340)

26
27 ²5. Section 5 of P.L.1983, c.492 (C.30:5B-5) is amended to read
28 as follows:

29 5. a. The department shall have responsibility and authority to
30 license and inspect child care centers. The commissioner shall
31 promulgate rules and regulations for the operation and maintenance
32 of child care centers which shall prescribe standards governing the
33 safety and adequacy of the physical plant or facilities; the
34 education, health, safety, general well-being and physical and
35 intellectual development of the children; the quality and quantity of
36 food served; the number of staff and the qualifications of each staff
37 member; the implementation of a developmentally appropriate
38 program; the maintenance and confidentiality of records and
39 furnishing of required information; the transportation of children;
40 and the administration of the center. The commissioner shall also
41 promulgate rules and regulations for license application, issuance,
42 renewal, expiration, denial, suspension and revocation. In
43 developing, revising or amending such rules and regulations, the
44 commissioner shall consult with the Child Care Advisory Council
45 created pursuant to section 14 of P.L.1983, c.492 (C.30:5B-14), and
46 with other appropriate administrative officers and agencies,
47 including the Departments of Health and Senior Services,
48 Education, Labor, Community Affairs and the Division of Motor

1 Vehicles giving due weight to their recommendations. The rules
2 and regulations promulgated pursuant to this act shall be adopted
3 and amended in accordance with the "Administrative Procedure
4 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

5 b. The department shall conduct an on site facility inspection
6 and shall evaluate the program of the child care center to determine
7 whether the center complies with the provisions of this act.

8 c. Any rule or regulation involving physical examination **[**,
9 immunization**]** or medical treatment other than immunization shall
10 include an appropriate exemption for any child whose parent or
11 parents object thereto on the ground that it conflicts with the tenets
12 and practice of a recognized church or religious denomination of
13 which the parent or child is an adherent or member.

14 d. The department shall have the authority to inspect and
15 examine the physical plant or facilities of a child care center and to
16 inspect all documents, records, files or other data maintained
17 pursuant to this act during normal operating hours and without prior
18 notice.

19 e. The department shall request the appropriate State and local
20 fire, health and building officials to conduct examinations and
21 inspections to determine compliance with State and local
22 ordinances, codes and regulations by a child care center. The
23 inspections shall be conducted and the results reported to the
24 department within 60 days after the request.

25 f. Nothing in this act shall be interpreted to permit the adoption
26 of any code or standard which exceeds the standards established
27 pursuant to the "State Uniform Construction Code Act," P.L.1975,
28 c.217 (C.52:27D-119 et seq.).

29 g. Any rules and regulations adopted by the department
30 pursuant to this act prescribing standards governing the safety and
31 adequacy of the physical plant or facilities of child care centers
32 shall not apply to a child care center operated by a nonprofit
33 organization in a public school building used as a public school.²

34 (cf: P.L.2000, c.122, s.2)

35

36 ²[4.] 6.² This act shall take effect ²[immediately] 180 days
37 after the date of enactment² .