

P.L. 2019, CHAPTER 330, *approved January 13, 2020*
Assembly, No. 1576 (*Second Reprint*)

1 AN ACT concerning influenza vaccination ²[of certain ¹[health care
2 workers] employees¹]² and supplementing Title 26 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. As used in this act:

9 “Commissioner” means the Commissioner of Health.

10 “Health care facility” means a general or special hospital,
11 nursing home, or home health care agency licensed pursuant to
12 P.L.1971, c.136 (C.26:2H-1 et seq.).

13 ¹“Health care worker” means a person employed by a health
14 care facility who provides direct patient care or otherwise has
15 contact with patients.]¹

16 b. Commencing with the ¹[2013-2014] ²[2018-2019¹] onset of
17 the first² influenza season ²next following the effective date of this
18 act², each health care facility shall establish and implement an
19 annual influenza vaccination program in accordance with the
20 current recommendations of the Advisory Committee on
21 Immunization Practices of the federal Centers for Disease Control
22 and Prevention and any rules and regulations adopted by the
23 commissioner pursuant to this act.

24 c. For the purposes of its annual influenza vaccination program,
25 each health care facility shall:

26 (1) annually ²[offer to]² provide an on-site or off-site influenza
27 vaccination to each of its ¹[health care workers] employees¹;

28 (2) require that each ¹[health care worker] employee¹ at the
29 facility receive an influenza vaccination ¹annually ²[between
30 October 1 and] , no later than² December 31 of the current
31 influenza season ²[¹] as determined by the federal Centers for
32 Disease Control and Prevention, which vaccination shall be²
33 provided by the health care facility, except that ¹[a health care
34 worker] an employee¹ may, in lieu of receiving the influenza
35 vaccination at the facility, present acceptable proof, ²[including]
36 comprising:

37 (a)² an attestation from the ¹[health care worker] employee¹,
38 ²which shall be submitted in a form and manner designated by the
39 facility,² of a current influenza vaccination if the ¹[health care
40 worker] employee¹ receives the vaccination from another

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 AHE committee amendments adopted May 13, 2019.

²Senate floor amendments adopted December 16, 2019.

1 vaccination source, ²or sign a written declination statement which
2 attestation shall include the lot number of the vaccination the
3 employee received or;

4 (b) a medical exemption, which shall be submitted using a form
5 designated by the Department of Health, stating that the influenza
6 vaccination for that employee is medically contraindicated, as
7 enumerated by the Advisory Committee on Immunization Practices
8 of the federal Centers for Disease Control and Prevention. An
9 attestation of a medical exemption shall be subject to approval by
10 the facility following a review by the facility to confirm the medical
11 exemption is consistent with standards enumerated by the Advisory
12 Committee on Immunization Practices²;

13 (3) maintain a record or attestation, as applicable, of influenza
14 vaccinations ²and medical exemptions² for each ²1[health care
15 worker] employee¹, retain each signed declination statement from
16 ¹a health care worker an² employee¹ ²who elects not to receive
17 an influenza vaccination,² and report to the Department of Health,
18 in a manner and according to a schedule prescribed by the
19 commissioner, the vaccination percentage rate of its ¹health care¹
20 workforce in receiving influenza vaccinations as part of the
21 facility's annual vaccination program or by other means as attested
22 to by the ¹health care¹ workforce, as applicable. The report may
23 also include other information that the facility deems relevant to its
24 vaccination percentage rate, including, but not limited to, the
25 number of ¹health care workers employees¹ who ²signed
26 declination statements that the facility has² received ²medical
27 exemptions²;

28 (4) provide an educational component to its program that is
29 designed to inform ¹health care workers employees¹ about:
30 influenza vaccination; non-vaccine influenza control measures; and
31 the symptoms, transmission, and potential impact of influenza;²
32 and²

33 (5) annually conduct an evaluation of the program with the goal
34 of improving the rate of vaccination among its ¹health care
35 workers employees^{1 2}; and

36 (6) require any employee who does not receive an influenza
37 vaccination to wear a surgical or procedural mask when in direct
38 contact with patients and in common areas, as specified in facility
39 policy, or to be removed from direct patient care responsibilities
40 during influenza season².

41 d. A health care facility may suspend its annual ²offer of ²
42 influenza vaccination ²program² pursuant to this act in the event of
43 a shortage of influenza vaccine as determined by the commissioner.

44 e. (1) ¹Any The commissioner may assess such penalties and
45 take other actions against a health care facility, as provided in
46 P.L.1971, c.136 (C.26:2H-1 et seq.), or any rules and regulations

1 adopted pursuant thereto, for any¹ determination by the
2 commissioner of noncompliance by a health care facility or any of
3 its ¹**["health care workers"]** employees¹ with the provisions of this
4 act¹**],** based upon an inspection or survey conducted by the
5 Department of Health pursuant to section 5 of P.L.1971, c.136
6 (C.26:2H-5), or as otherwise determined by the commissioner, shall
7 not constitute a licensure violation or deficiency with respect to that
8 facility for the purposes of P.L.1971, c.136 (C.26:2H-1 et seq.), or
9 any rules and regulations adopted pursuant thereto¹**]**.

10 (2) The commissioner shall seek to minimize any record-keeping
11 burden imposed on a health care facility pursuant to this act and
12 shall take such actions as are necessary to ensure the confidentiality
13 of any data furnished to the department pursuant to this act that may
14 contain information identifying an individual ¹**["health care worker"]**
15 employee¹.

16 (3) The commissioner shall make available to the public
17 aggregate data reported by a facility pursuant to paragraph (3) of
18 subsection c. of this section.

19 f. A health care facility shall not discharge or reduce the pay of
20 ²**["a health care worker"]** an employee² who ²**["declines to receive**
21 **an"]** receives a medical exemption from the annual² influenza
22 vaccination ²requirement².

23 g. Nothing in this section shall be construed to prohibit a health
24 care facility from ²**["taking measures to protect its patients in the**
25 **event that** ¹**["a health care workers"]** an employee¹ declines to
26 receive an influenza vaccination, which measures may include, but
27 are not limited to, relocation or change of assignment of ¹**["a health**
28 **care workers"]** an employee¹**"]** adopting additional policies and
29 procedures with regard to the annual influenza vaccine that are not
30 inconsistent with the requirements of this section².

31
32 2. No later than August 1st of each year, the commissioner
33 shall report to the Governor, and to the Legislature pursuant to
34 section 2 of P.L.1991, c.164 (C.52:14-19.1), on the vaccination
35 percentage rates of health care workers for the prior influenza
36 season.

37
38 3. The Commissioner of Health, pursuant to the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), shall adopt rules and regulations as necessary to implement
41 the provisions of this act.

42
43 4. This act shall take effect immediately.

44
45
46 Requires certain health care facilities to provide, and employees
47 to receive, annual influenza vaccination.