

CHAPTER 330

AN ACT concerning influenza vaccination and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.26:2H-18.79 Influenza vaccination in health care facilities.

1. a. As used in this act:

“Commissioner” means the Commissioner of Health.

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

b. Commencing with the onset of the first influenza season next following the effective date of this act, each health care facility shall establish and implement an annual influenza vaccination program in accordance with the current recommendations of the Advisory Committee on Immunization Practices of the federal Centers for Disease Control and Prevention and any rules and regulations adopted by the commissioner pursuant to this act.

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

(1) annually provide an on-site or off-site influenza vaccination to each of its employees;

(2) require that each employee at the facility receive an influenza vaccination annually, no later than December 31 of the current influenza season as determined by the federal Centers for Disease Control and Prevention, which vaccination shall be provided by the health care facility, except that an employee may, in lieu of receiving the influenza vaccination at the facility, present acceptable proof, comprising:

(a) an attestation from the employee, which shall be submitted in a form and manner designated by the facility, of a current influenza vaccination if the employee receives the vaccination from another vaccination source, which attestation shall include the lot number of the vaccination the employee received or;

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

(3) maintain a record or attestation, as applicable, of influenza vaccinations and medical exemptions for each employee and report to the Department of Health, in a manner and according to a schedule prescribed by the commissioner, the vaccination percentage rate of its workforce in receiving influenza vaccinations as part of the facility’s annual vaccination program or by other means as attested to by the workforce, as applicable. The report may also include other information that the facility deems relevant to its vaccination percentage rate, including, but not limited to, the number of employees who received medical exemptions;

(4) provide an educational component to its program that is designed to inform employees about: influenza vaccination; non-vaccine influenza control measures; and the symptoms, transmission, and potential impact of influenza;

(5) annually conduct an evaluation of the program with the goal of improving the rate of vaccination among its employees; and

(6) require any employee who does not receive an influenza vaccination to wear a surgical or procedural mask when in direct contact with patients and in common areas, as

specified in facility policy, or to be removed from direct patient care responsibilities during influenza season.

d. A health care facility may suspend its annual influenza vaccination program pursuant to this act in the event of a shortage of influenza vaccine as determined by the commissioner.

e. (1) The commissioner may assess such penalties and take other actions against a health care facility, as provided in P.L.1971, c.136 (C.26:2H-1 et seq.), or any rules and regulations adopted pursuant thereto, for any determination by the commissioner of noncompliance by a health care facility or any of its employees with the provisions of this act.

(2) The commissioner shall seek to minimize any record-keeping burden imposed on a health care facility pursuant to this act and shall take such actions as are necessary to ensure the confidentiality of any data furnished to the department pursuant to this act that may contain information identifying an individual employee.

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

f. A health care facility shall not discharge or reduce the pay of an employee who receives a medical exemption from the annual influenza vaccination requirement.

g. Nothing in this section shall be construed to prohibit a health care facility from adopting additional policies and procedures with regard to the annual influenza vaccine that are not inconsistent with the requirements of this section.

C.26:2H-18.80 Report to Governor, Legislature.

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

C.26:2H-18.81 Rules, regulations.

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

4. This act shall take effect immediately.

Approved January 13, 2020.