SENATE, No. 2173

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS
Clarifies statutory exemptions from mandatory immunizations for students.

CURRENT VERSION OF TEXT
As introduced.
S2173 WEINBERG, VITALE


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

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

6. Underlined thus is new matter.


B. Exempted by the Senate and General Assembly of the State of New Jersey:

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

6. a. Provisions in the State Sanitary Code in implementation of [this act], P.L.1947, c.177 (C.26:1A-1 et seq.), or provisions otherwise set forth in statute or regulation, which require the immunization of students in a preschool program, or at an elementary or secondary school or an institution of higher education, shall provide for an exemption [for pupils] from such mandatory immunization [if the parent or guardian of the pupil objects thereto in a written statement signed by the parent or guardian upon the ground that the proposed immunization interferes with the free exercise of the pupil's religious rights. This exemption] based upon one of the following:

1) a written statement submitted to the preschool program, elementary or secondary school, or institution of higher education, as applicable, by a licensed physician, doctor of osteopathy, advanced practice nurse, or physician assistant indicating that the vaccine is medically contraindicated for a specific period of time and the reasons for the medical contraindication, based upon valid medical reasons as determined by regulation of the Commissioner of Health, which shall exempt the student from the vaccination for the stated period of time; or

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

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

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

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

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

(a) political, sociological, philosophical, or moral views; or
(b) concerns related to the safety or efficacy of the vaccination; and

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

c. A preschool program, elementary or secondary school, or institution of higher education shall not exempt a student from a mandatory immunization unless the student, or the student’s parent or guardian if the student is a minor, complies with all of the applicable requirements set forth in subsections a. and b. of this section.

d. 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 to effectuate the purposes of this section; except that, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of this section, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted, or re-adopted by the commissioner in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

4. A student shall not be required to receive a vaccination pursuant to section 2 or 3 of [this act based upon one of the following:
a. a written statement submitted to the secondary school or institution of higher education, as applicable, by a licensed physician indicating that the vaccine is medically contraindicated for a specific period of time and the reasons for the medical contraindication, based upon valid medical reasons as determined by regulation of the Commissioner of Health and Senior Services, which shall exempt the student from the vaccination for the stated period of time; or

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

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

3. Section 3 of P.L.2003, c.284 \(C.18A:62-15.1\) is amended to read as follows:

3. a. A student shall not be required to receive a vaccination pursuant to subsection a. of section 2 of \[this act based upon one of the following:

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

   (2) a written statement submitted to the institution of higher education by the student, or the student's parent or guardian if the student is a minor, explaining how the administration of the vaccine conflicts with the bona fide religious tenets or practices of the student, or the parent or guardian, as appropriate; except that a general philosophical or moral objection to the vaccination shall not be sufficient for an exemption on religious grounds.\footnote{P.L.2003, c.284 \(C.18A:62-15.1\) if the student qualifies for an exemption as provided in section 6 of P.L.1974, c.170 \(C.26:1A-9.1\).} (cf: P.L.2003, c.284, s.3)

b. In the event of an actual or threatened outbreak of meningitis at a public or private institution of higher education in this State, the institution may exclude from attendance a student who has been exempted from the vaccination requirement of this act pursuant to subsection a. of this section, as determined by the Commissioner of Health \[and Senior Services\].

(cf: P.L.2003, c.284, s.3)
4. This act shall take effect immediately.

STATEMENT

This bill provides statutory clarification for the State policy governing exemptions from immunizations of students that are mandated by the Commissioner of Health by regulation or otherwise required by law.

The bill stipulates that provisions in the State Sanitary Code, or provisions otherwise set forth in statute or regulation, which require the immunization of students at an elementary or secondary school or an institution of higher education, are to provide for an exemption from such mandatory immunization based upon one of the following:

- a written statement submitted to the elementary or secondary school or the institution of higher education, as applicable, by a licensed physician indicating that the vaccine is medically contraindicated for a specific period of time and the reasons for the medical contraindication, based upon valid medical reasons as determined by regulation of the Commissioner of Health, which is to exempt the student from the vaccination for the stated period of time; or

- documentation submitted to the elementary or secondary school or the institution of higher education, as applicable, by the student, or the student’s parent or guardian if the student is a minor, explaining how the administration of the vaccine conflicts with the bona fide religious tenets or practices of the student, or the parent or guardian, as appropriate; except that: a general philosophical or moral objection to the vaccination is not sufficient for an exemption on religious grounds; and an exemption on religious grounds may be suspended by the Commissioner of Health during the existence of an emergency as determined by the commissioner.

The bill sets forth the specific elements that are required to document that the administration of a vaccine conflicts with the bona fide religious tenets or practices of a student, or a student’s parent or guardian, as appropriate. These include the following:

- a written statement, to be notarized, signed, and sworn by the person submitting the statement, and which includes:
  -- an explanation of the nature of the person’s religious tenet or practice that is implicated by the vaccination and how administration of the vaccine would violate, contradict, or otherwise be inconsistent with that tenet or practice;
  -- information that indicates that the religious tenet or practice is consistently held by the person, which may include, but need not be limited to, expression of the person’s intent to decline any vaccination;
-- a statement that the religious tenet or practice is not solely an
equation of that person’s political, sociological, philosophical, or
moral views, or concerns related to the safety or efficacy of the
vaccination; and
-- a statement that the person understands the risks and benefits
of vaccination to the student and the public health and
acknowledges that the student may be excluded from attendance at
the student’s school or institution of higher education, as applicable,
in the event of the occurrence of a communicable disease or
condition or threat of a communicable disease or condition, which
in the opinion of the Commissioner of Health requires such
exclusion from attendance of unvaccinated students; and
• a signed statement from a physician licensed to practice in this
State, or another individual as designated by the Commissioner
of Health, that the person has received individual counseling
from the physician, or other individual as appropriate,
concerning the risks and benefits of vaccination to the student
and the public health.

The bill prohibits an elementary or secondary school or
institution of higher education from exempting a student from a
mandatory immunization unless the student, or the student’s parent
or guardian if the student is a minor, complies with all of the
applicable requirements set forth in the bill.

The bill provides the Commissioner of Health with expedited
rulemaking authority in order to provide such guidance to school
and public health authorities as they will need to implement its
provisions on a timely basis.