

[First Reprint]

SENATE, No. 2173

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on December 12, 2019, with amendments.



1 AN ACT concerning exemptions from mandatory ¹**[immunizations**
 2 for students] immunization requirements¹ and amending
 3 ¹**[P.L.1974, c.150, P.L.2002, c.58, and P.L.2003, c.284]** various
 4 parts of the statutory law¹ .

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 of ¹children in a public or private licensed child care
 15 center, or¹ students in a ¹public or private¹ preschool program, ¹**[or**
 16 **at an]**¹ elementary or secondary school ¹,¹ or ¹**[an]**¹ institution 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 ¹**[one of the following:**

23 (1)¹ a ¹**[written]**¹ statement submitted ¹, using a standard
 24 form as shall be prescribed by the Commissioner of Health,¹ to the
 25 ¹public or private child care center,¹ preschool program, elementary
 26 or secondary school, or institution of higher education, as
 27 applicable, by a licensed physician, doctor of osteopathy, ¹or¹
 28 advanced practice nurse ¹**[, 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 statement¹ that the vaccine is
 32 medically contraindicated for a specific period of time and the
 33 reasons for the medical contraindication, ¹**[based upon]** which shall
 34 be¹ valid medical reasons ¹**[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 Prevention. A medical exemption
 38 submitted pursuant to this subsection may be reviewed and subject
 39 to approval by the physician employed by or consulting for the local
 40 or county board of health. A medical exemption approved pursuant
 41 to this subsection¹ shall exempt the ¹child or¹ student ¹, as
 42 applicable,¹ from the vaccination for the stated period of time ¹**[; or**
 43 (2) documentation, as set forth in subsection b. of this section,
 44 which is submitted to the preschool program, elementary 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:

¹Senate SHH committee amendments adopted December 12, 2019.

1 secondary school, or institution of higher education, as applicable,
2 by the student, or the student's parent or guardian if the student is a
3 minor, explaining how the administration of the vaccine conflicts
4 with the bona fide religious tenets or practices of the student, or the
5 parent or guardian, as appropriate; except that: a general
6 philosophical or moral objection to the vaccination shall not be
7 sufficient for an exemption on religious grounds; and an exemption
8 on religious grounds may be suspended by the [State]
9 Commissioner of Health during the existence of an emergency as
10 determined by the [State Commissioner of Health] commissioner.]¹
11 . County and local boards of health shall have the authority to audit
12 medical exemptions approved pursuant to this subsection. Subject
13 to the provisions of subsection i. of section 4 of P.L.2004, c.138
14 (C.26:4-134), the professional issuing the statement shall
15 additionally enter the statement into the child's or student's record
16 in the New Jersey Immunization Information System established
17 pursuant to the P.L.2004, c.138 (C.26:4-131 et seq.)¹ .

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

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

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

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

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

33 (b) concerns related to the safety or efficacy of the vaccination;
34 and

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

44 c.]¹ A ¹public or private child care center,¹ preschool program,
45 elementary or secondary school, or institution of higher education
46 shall not exempt a ¹child or¹ student ¹, as applicable,¹ from a
47 mandatory immunization unless the ¹child or¹ student, or the

1 'child's or' student's parent or guardian if the 'child or' student is
2 a minor, complies with all of the applicable requirements set forth
3 in '[subsections] subsection' a. '[and b.]' of this section.

4 '[d.] c.' The Commissioner of Health, pursuant to the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.), shall adopt rules and regulations to effectuate the purposes of
7 this section; except that, notwithstanding any provision of P.L.1968,
8 c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may
9 adopt, immediately upon filing with the Office of Administrative
10 Law, such regulations as the commissioner deems necessary to
11 implement the provisions of this section, which shall be effective
12 for a period not to exceed six months and may thereafter be
13 amended, adopted, or re-adopted by the commissioner in
14 accordance with the requirements of P.L.1968, c.410 (C.52:14B-
15 1 et seq.).

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

17

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

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

23 a. a written statement submitted to the secondary school or
24 institution of higher education, as applicable, by a licensed
25 physician indicating that the vaccine is medically contraindicated
26 for a specific period of time and the reasons for the medical
27 contraindication, based upon valid medical reasons as determined
28 by regulation of the Commissioner of Health and Senior Services,
29 which shall exempt the student from the vaccination for the stated
30 period of time; or

31 b. a written statement submitted to the secondary school or
32 institution of higher education, as applicable, by the student, or the
33 student's parent or guardian if the student is a minor, explaining
34 how the administration of the vaccine conflicts with the bona fide
35 religious tenets or practices of the student, or the parent or guardian,
36 as appropriate; except that a general philosophical or moral
37 objection to the vaccination shall not be sufficient for an exemption
38 on religious grounds **]** P.L.2002, c.58 (C.18A:61D-9 or C.18A:40-
39 21.1) if the student qualifies for an exemption as provided in section
40 6 of P.L.1974, c.150 (C.26:1A-9.1).

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

42

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

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

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

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

17 b. In the event of an actual or threatened outbreak of meningitis
18 at a public or private institution of higher education in this State,
19 the institution may exclude from attendance a student who has been
20 exempted from the vaccination requirement of this act pursuant to
21 subsection a. of this section, as determined by the Commissioner of
22 Health **【and Senior Services】**.

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

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

27 4. a. There is established a Statewide automated and electronic
28 immunization registry, to be designated as the New Jersey
29 Immunization Information System, in the Department of Health.
30 The registry shall be designed to serve as a single repository of
31 immunization records to aid, coordinate, and help promote effective
32 and cost-efficient disease screening, prevention, and control efforts
33 in the State.

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

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

40 c. Access to the information in the registry shall be limited to:
41 health care providers, schools, colleges, licensed child care centers,
42 and public agencies, and private organizations as determined by
43 regulation of the commissioner. A registrant, or the registrant's
44 parent or legal guardian if the registrant is a minor, shall have
45 access to the registrant's immunization and other preventive health
46 screening information in the registry.

47 d. The information contained in the registry shall be used for
48 **【the following】** purposes including, but not limited to:

- 1 (1) to help ensure that registrants receive all recommended
2 immunizations in a timely manner by providing access to the
3 registrants' immunization records;
- 4 (2) to help improve immunization rates by providing notice to
5 registrants of overdue or upcoming immunizations; and
- 6 (3) to help control communicable diseases by assisting in the
7 identification of persons who require immediate immunization in
8 the event of a vaccine-preventable disease outbreak.
- 9 e. The authentic immunization and other preventive health
10 screening record of a child, which shall consist of a paper or
11 electronic copy of the registry entry that is a true and accurate
12 representation of the information contained therein, obtained from
13 the registry shall be accepted as a valid immunization and
14 preventive health screening record of the registrant for the purpose
15 of meeting immunization and preventive health screening
16 documentation requirements for admission to a school, college, or
17 licensed child care center.
- 18 f. A health care provider shall not discriminate in any way
19 against a person solely because the person elects not to participate
20 in the registry.
- 21 g. ~~【An authorized user granted access as provided in~~
22 ~~subsection c. of this section shall only access information in the~~
23 ~~registry on a specific patient or client who is presently receiving~~
24 ~~services, is under the user's care or is within the applicable~~
25 ~~governmental health authority's jurisdiction.】 (deleted by
26 amendment, P.L. , c.) (pending before the Legislature as this
27 bill)~~
- 28 h. An agency, organization, or other entity authorized to access
29 information in the registry shall not use any report made by a health
30 care provider pursuant to this act in any punitive manner against the
31 provider.
- 32 i. A record of an exemption from a mandatory immunization
33 on the grounds of medical contraindication shall be included in the
34 registry along with supporting documentation. Within one year
35 after the effective date of P.L. , c. (C.) (pending before the
36 Legislature as this bill), the registry shall be updated with the
37 capability to allow for the inclusion in the registry of relevant forms
38 provided by the Department of Health, including the form or
39 equivalent information included in the form prescribed by the
40 Commissioner of Health upon which a health care professional
41 provides the reasons for the issuance of a medical exemption to a
42 mandatory immunization, including the name, address, and national
43 provider identifier of the health care professional responsible for
44 completing the prescribed form.
- 45 Within one year after the effective date of P.L. , c. (C.)
46 (pending before the Legislature as this bill), the registry shall be
47 updated with the capability to allow for the generation of a printable

1 report of the information placed in the registry as required pursuant
2 to this subsection.

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

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

9 (2) the methods for submitting, and the content of, reports of
10 immunizations to the registry, for which purpose the commissioner
11 shall provide, to the maximum extent practicable, for reporting
12 options to facilitate compliance with the requirements of subsection
13 b. of this section;

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

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

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

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

28 (7) procedures for health insurers to obtain immunization
29 information from the registry concerning only their covered
30 persons, as well as summary statistics, which information or
31 statistics shall not be used or disclosed for any other purpose than
32 to:

33 (a) improve patient care;

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

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

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

41 (8) procedures for the department to disseminate statistical
42 information and supporting commentary.¹

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

44

45 ¹5. Section 5 of P.L.1983, c.492 (C.30:5B-5) is amended to read
46 as follows:

47 5. a. The department shall have responsibility and authority to
48 license and inspect child care centers. The commissioner shall

1 promulgate rules and regulations for the operation and maintenance
2 of child care centers which shall prescribe standards governing the
3 safety and adequacy of the physical plant or facilities; the
4 education, health, safety, general well-being and physical and
5 intellectual development of the children; the quality and quantity of
6 food served; the number of staff and the qualifications of each staff
7 member; the implementation of a developmentally appropriate
8 program; the maintenance and confidentiality of records and
9 furnishing of required information; the transportation of children;
10 and the administration of the center. The commissioner shall also
11 promulgate rules and regulations for license application, issuance,
12 renewal, expiration, denial, suspension and revocation. In
13 developing, revising or amending such rules and regulations, the
14 commissioner shall consult with the Child Care Advisory Council
15 created pursuant to section 14 of P.L.1983, c.492 (C.30:5B-14), and
16 with other appropriate administrative officers and agencies,
17 including the Departments of Health and Senior Services,
18 Education, Labor, Community Affairs and the Division of Motor
19 Vehicles giving due weight to their recommendations. The rules
20 and regulations promulgated pursuant to this act shall be adopted
21 and amended in accordance with the "Administrative Procedure
22 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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

26 c. Any rule or regulation involving physical examination **【**,
27 immunization**】** or medical treatment other than immunization shall
28 include an appropriate exemption for any child whose parent or
29 parents object thereto on the ground that it conflicts with the tenets
30 and practice of a recognized church or religious denomination of
31 which the parent or child is an adherent or member.

32 d. The department shall have the authority to inspect and
33 examine the physical plant or facilities of a child care center and to
34 inspect all documents, records, files or other data maintained
35 pursuant to this act during normal operating hours and without prior
36 notice.

37 e. The department shall request the appropriate State and local
38 fire, health and building officials to conduct examinations and
39 inspections to determine compliance with State and local
40 ordinances, codes and regulations by a child care center. The
41 inspections shall be conducted and the results reported to the
42 department within 60 days after the request.

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

47 g. Any rules and regulations adopted by the department
48 pursuant to this act prescribing standards governing the safety and

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1 adequacy of the physical plant or facilities of child care centers
2 shall not apply to a child care center operated by a nonprofit
3 organization in a public school building used as a public school.¹
4 (cf: P.L.2000, c.122, s.2)

5

6 ¹~~4.~~ 6.¹ This act shall take effect ¹~~immediately~~ 180 days
7 after the date of enactment¹ .