

[Second Reprint]

SENATE, No. 2173

STATE OF NEW JERSEY
218th LEGISLATURE

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Sponsored by:

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District 37 (Bergen)

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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.



1 AN ACT concerning exemptions from mandatory ¹**immunizations**
 2 for students **immunization requirements**¹ 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 ²:² ¹**[one of the following:**

23 (1)]¹ ²(1)² a ¹**[written]¹ statement submitted ¹, using a**
 24 standard form as shall be prescribed by the Commissioner of
 25 Health,¹ to the ¹public or private child care center,¹ preschool
 26 program, elementary or secondary school, or institution of higher
 27 education, as applicable, by a licensed physician, doctor of
 28 osteopathy, ¹or¹ advanced practice nurse ¹**[, or physician assistant**
 29 indicating] that includes: (1) the professional's full name and
 30 address, and the national provider identifier of the professional or
 31 the professional's collaborating physician; and (2) a statement¹ that
 32 the vaccine is medically contraindicated for a specific period of
 33 time and the reasons for the medical contraindication, ¹**[based**
 34 upon] which shall be¹ valid medical reasons ¹**[as determined by**
 35 regulation of the Commissioner of Health, which] that are
 36 consistent with guidelines issued by the Advisory Committee on
 37 Immunization Practices in the federal Centers for Disease
 38 Prevention. A medical exemption submitted pursuant to this
 39 subsection may be reviewed and subject to approval by the
 40 physician employed by or consulting for the local or county board
 41 of health. A medical exemption approved pursuant to this
 42 subsection¹ shall exempt the ¹child or¹ student ¹, as applicable,¹
 43 from the vaccination for the stated period 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:

¹Senate SHH committee amendments adopted December 12, 2019.

²Senate floor amendments adopted January 9, 2020.

(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] commissioner¹²; or

(2) documentation establishing that the Department of Health has approved an exemption for the child or student on the grounds that a sibling of the child or student experienced a vaccine injury. A request for approval of a sibling vaccine injury exemption pursuant to this paragraph shall be submitted to the Department of Health by the child or student, or by the child's or student's parent or guardian if the child or student is a minor, on forms and in manner as shall be prescribed by the Commissioner of Health by regulation, and shall include documentation of a final determination of vaccine injury issued through the Vaccine Injury Compensation Program administered by the Health Resources and Services Administration in the United States Department of Health and Human Services or a final judgment issued by a court of competent jurisdiction that includes a finding of vaccine injury. Documentation of the department's approval of a sibling vaccine injury exemption pursuant to this paragraph shall be submitted to the public or private childcare center, elementary or secondary school, or institution of higher education, as applicable, by the child or student, or by the child's or student's parent or guardian if the child or student is a minor² County and local boards of health shall have the authority to audit ²[medical]² exemptions approved pursuant to this subsection. Subject to the provisions of subsection i. of section 4 of P.L.2004, c.138 (C.26:4-134), the professional issuing the statement shall additionally enter the statement into the child's or student's record in the New Jersey Immunization Information System established pursuant to the P.L.2004, c.138 (C.26:4-131 et seq.)¹ .

b. ¹[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:

(1) an explanation of the nature of the person's religious tenet or practice that is implicated by the vaccination and how

1 administration of the vaccine would violate, contradict, or otherwise
2 be inconsistent with that tenet or practice;

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

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

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

10 (b) concerns related to the safety or efficacy of the vaccination;

11 and

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

21 c.]¹ ²[A] Except as provided in subsection c. of this section, a²
22 'public or private child care center,'¹ preschool program, elementary
23 or secondary school, or institution of higher education shall not
24 exempt a 'child or' student¹, as applicable,¹ from a mandatory
25 immunization unless the 'child or' student, or the 'child's or'
26 student's parent or guardian if the 'child or' student is a minor,
27 complies with all of the applicable requirements set forth in
28 '[subsections] subsection'¹ a. '[and b.]'¹ of this section.

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

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

44 (a) set forth the child care center's, preschool program's,
45 school's, or institution of higher education's policy with regard to

1 admitting children or students, as applicable, who are not in full
2 compliance with mandatory immunization requirements; and

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

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

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

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

37 d.² The Commissioner of Health, pursuant to the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
39 1 et seq.), shall adopt rules and regulations to effectuate the
40 purposes of this section ²including requirements concerning the
41 format of acknowledgement forms used for the purposes of
42 complying with subsection c. of this section² ; except that,
43 notwithstanding any provision of P.L.1968, c.410 (C.52:14B-
44 1 et seq.) to the contrary, the commissioner may adopt, immediately
45 upon filing with the Office of Administrative Law, such regulations
46 as the commissioner deems necessary to implement the provisions

1 of this section, which shall be effective for a period not to exceed
2 six months and may thereafter be amended, adopted, or re-adopted
3 by the commissioner in accordance with the requirements of
4 P.L.1968, c.410 (C.52:14B-1 et seq.).
5 (cf: P.L.1974, c.150, s.6)

6
7 2. Section 4 of P.L.2002, c.58 (C.18A:61D-10) is amended to
8 read as follows:

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

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

20 b. a written statement submitted to the secondary school or
21 institution of higher education, as applicable, by the student, or the
22 student's parent or guardian if the student is a minor, explaining
23 how the administration of the vaccine conflicts with the bona fide
24 religious tenets or practices of the student, or the parent or guardian,
25 as appropriate; except that a general philosophical or moral
26 objection to the vaccination shall not be sufficient for an exemption
27 on religious grounds **■** P.L.2002, c.58 (C.18A:61D-9 or C.18A:40-
28 21.1) if the student qualifies for an exemption as provided in section
29 6 of P.L.1974, c.150 (C.26:1A-9.1).

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

31
32 3. Section 3 of P.L.2003, c.284 (C.18A:62-15.2) is amended to
33 read as follows:

34 3. a. A student shall not be required to receive a vaccination
35 pursuant to subsection a. of section 2 of **■**this act based upon one of
36 the following:

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

44 (2) a written statement submitted to the institution of higher
45 education by the student, or the student's parent or guardian if the
46 student is a minor, explaining how the administration of the vaccine

1 conflicts with the bona fide religious tenets or practices of the
2 student, or the parent or guardian, as appropriate; except that a
3 general philosophical or moral objection to the vaccination shall not
4 be sufficient for an exemption on religious grounds **】** P.L.2003,
5 c.284 (C.18A:62-15.1) if the student qualifies for an exemption as
6 provided in section 6 of P.L.1974, c.170 (C.26:1A-9.1).

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

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

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

17 4. a. There is established a Statewide automated and electronic
18 immunization registry, to be designated as the New Jersey
19 Immunization Information System, in the Department of Health.
20 The registry shall be designed to serve as a single repository of
21 immunization records to aid, coordinate, and help promote effective
22 and cost-efficient disease screening, prevention, and control efforts
23 in the State.

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

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

30 c. Access to the information in the registry shall be limited to:
31 health care providers, schools, colleges, licensed child care centers,
32 and public agencies, and private organizations as determined by
33 regulation of the commissioner. A registrant, or the registrant's
34 parent or legal guardian if the registrant is a minor, shall have
35 access to the registrant's immunization and other preventive health
36 screening information in the registry.

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

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

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

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

1 e. The authentic immunization and other preventive health
2 screening record of a child, which shall consist of a paper or
3 electronic copy of the registry entry that is a true and accurate
4 representation of the information contained therein, obtained from
5 the registry shall be accepted as a valid immunization and
6 preventive health screening record of the registrant for the purpose
7 of meeting immunization and preventive health screening
8 documentation requirements for admission to a school, college, or
9 licensed child care center.

10 f. A health care provider shall not discriminate in any way
11 against a person solely because the person elects not to participate
12 in the registry.

13 g. ~~【An authorized user granted access as provided in~~
14 ~~subsection c. of this section shall only access information in the~~
15 ~~registry on a specific patient or client who is presently receiving~~
16 ~~services, is under the user's care or is within the applicable~~
17 ~~governmental health authority's jurisdiction.】²~~[(deleted by~~
18 ~~amendment, P.L. , c.) (pending before the Legislature as this~~
19 ~~bill).】~~ An authorized user granted access as provided in subsection
20 c. of this section shall only access information in the registry on a
21 specific patient or client who is presently receiving services, is
22 under the user's care or is within the applicable governmental health
23 authority's jurisdiction.²~~

24 h. ²~~【An agency, organization, or other entity authorized to~~
25 ~~access information in the registry shall not use any report made by a~~
26 ~~health care provider pursuant to this act in any punitive manner~~
27 ~~against the provider.】~~ (deleted by amendment, P.L. , c.)
28 (pending before the Legislature as this bill)²

29 i. A record of an exemption from a mandatory immunization
30 on the grounds of medical contraindication shall be included in the
31 registry along with supporting documentation. Within one year
32 after the effective date of P.L. , c. (C.) (pending before the
33 Legislature as this bill), the registry shall be updated with the
34 capability to allow for the inclusion in the registry of relevant forms
35 provided by the Department of Health, including the form or
36 equivalent information included in the form prescribed by the
37 Commissioner of Health upon which a health care professional
38 provides the reasons for the issuance of a medical exemption to a
39 mandatory immunization, including the name, address, and national
40 provider identifier of the health care professional responsible for
41 completing the prescribed form.

42 Within one year after the effective date of P.L. , c. (C.)
43 (pending before the Legislature as this bill), the registry shall be
44 updated with the capability to allow for the generation of a printable
45 report of the information placed in the registry as required pursuant
46 to this subsection.

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

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

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

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

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

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

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

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

31 (a) improve patient care;

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

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

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

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

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

42
43 ¹5. Section 5 of P.L.1983, c.492 (C.30:5B-5) is amended to read
44 as follows:

45 5. a. The department shall have responsibility and authority to
46 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.).

1 g. Any rules and regulations adopted by the department
2 pursuant to this act prescribing standards governing the safety and
3 adequacy of the physical plant or facilities of child care centers
4 shall not apply to a child care center operated by a nonprofit
5 organization in a public school building used as a public school.¹
6 (cf: P.L.2000, c.122, s.2)

7

8 ¹~~4.~~ 6.¹ This act shall take effect ¹~~immediately~~ 180 days
9 after the date of enactment¹ .