

ASSEMBLY, No. 5096

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:

Assemblyman GERARD SCHARFENBERGER

District 13 (Monmouth)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Co-Sponsored by:

Assemblymen Peterson, Rooney, McGuckin and Catalano

SYNOPSIS

Restricts establishment of mandates to become vaccinated against coronavirus disease 2019 (COVID-19); establishes reimbursement program to cover certain out-of-pocket costs incurred in obtaining COVID-19 vaccine.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/8/2021)

1 AN ACT concerning vaccinations and supplementing Title 26 of the
2 Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. Notwithstanding the provisions of P.L.2005, c.222
8 (C.26:13-1 et seq.) to the contrary, no person shall be required to be
9 immunized against SARS-CoV-2 by:

10 (1) an executive order issued by the Governor;

11 (2) an order issued by any State, county, or local department,
12 agency, office, or other governmental entity; or

13 (3) a public or private child care center, preschool program,
14 elementary or secondary school, or institution of higher education
15 as a condition of attendance at the child care center, preschool
16 program, elementary or secondary school, or institution of higher
17 education.

18 b. The provisions of subsection a. of this section shall not
19 apply in the case of a health care worker or an individual employed
20 by or providing services at a health care facility licensed pursuant to
21 P.L.1971, c.136 (C.26:2H-1 et seq.) who is required to be
22 immunized against SARS-CoV-2 as a condition of working with a
23 medically-vulnerable population. Any requirement for a health care
24 worker or an individual employed by or providing services at a
25 licensed health care facility to be immunized against SARS-CoV-2
26 shall be subject to any other standards and requirements as apply
27 under State and federal law concerning immunizations required for
28 health care workers and individuals employed by, or providing
29 services at, a licensed health care facility, including any exemptions
30 as may apply when the immunization is medically contraindicated
31 for an individual or when the individual objects to the immunization
32 based on sincerely-held religious belief. In the case of an
33 immunization against SARS-CoV-2 that is required by a health care
34 facility for health care workers or other individuals, the
35 immunization requirement shall additionally be subject to the same
36 facility policies as apply to other immunizations required as a
37 condition of working at or providing services at the facility,
38 including any exemptions as may apply when the immunization is
39 medically contraindicated for an individual or when the individual
40 objects to the immunization based on sincerely-held religious
41 belief.

42
43 2. a. The Department of Health shall establish a program to
44 reimburse health care workers and individuals employed by or
45 providing services at a long-term care facility who are required to
46 be immunized against SARS-CoV-2 as a condition of working with
47 a medically-vulnerable population for the out-of-pocket costs
48 incurred by the individual to obtain the immunization against

1 SARS-CoV-2. To be eligible for reimbursement for the
2 immunization against SARS-CoV-2 under the program, the
3 individual shall certify to the department:

4 (1) the actual out-of-pocket costs incurred by the individual in
5 obtaining the immunization against SARS-CoV-2;

6 (2) that the full cost of the SARS-CoV-2 immunization is not
7 covered under the individual's health benefits plan;

8 (3) that the entity employing or utilizing the services of the
9 individual will not cover any portion of the cost of the SARS-CoV-
10 2 immunization that is not covered under the individual's health
11 benefits plan;

12 (4) that the out-of-pocket costs incurred by the individual do not
13 represent a copay, coinsurance, or other cost sharing imposed by the
14 individual's health benefits plan; and

15 (5) that the out-of-pocket costs incurred by the individual to
16 obtain the SARS-CoV-2 immunization represents an undue
17 financial burden to the individual.

18 b. An individual who submits a false certification to the
19 department pursuant to subsection a. of this section shall be
20 required to repay to the department the full amount of any
21 reimbursement paid to the individual out of program funds, and
22 shall additionally be liable to a civil penalty of up to \$1,000, which
23 shall be collected by and in the name of the department in summary
24 proceedings before a court of competent jurisdiction pursuant to the
25 provisions of the "Penalty Enforcement Law of 1999,"
26 P.L.1999, c.174 (C.2A:58-10 et seq.).

27
28 3. This act shall take effect immediately.
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31 STATEMENT
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33 This bill prohibits State, county, and local government entities,
34 as well as public and private child care centers, preschool programs,
35 elementary and secondary schools, and institutions of higher
36 education, from mandating that any person be immunized against
37 SARS-CoV-2, the virus that causes coronavirus disease 2019
38 (COVID-19). The restriction will not apply to health care workers
39 or individuals employed by or providing services at a licensed
40 health care facility who are required to receive the immunization as
41 a condition of working with a medically-vulnerable population.

42 The bill additionally provides that any requirement that health
43 care workers and other individuals working or providing services at
44 a licensed health care facility be vaccinated against COVID-19 will
45 be subject to State and federal laws and health care facility policies
46 that apply to other vaccines that are required for health care workers
47 and other vaccines that are required as a condition of working or
48 providing services at a health care facility, including any

1 exemptions that apply when a vaccine is medically-contraindicated
2 for the individual or when the individual objects to the vaccine
3 based on sincerely-held religious belief.

4 The bill further requires the Department of Health (DOH) to
5 establish a program to reimburse health care workers and other
6 individuals who are required to receive the COVID-19 vaccine for
7 out-of-pocket costs. To be eligible for reimbursement, the
8 individual will be required to certify to the DOH: (1) the actual
9 out-of-pocket costs incurred by the individual; (2) that all or part of
10 the cost of the vaccine is not covered by health insurance; (3) that
11 the individual's employer will not cover any portion of the cost of
12 the vaccine that is not covered by health insurance; (4) that the out-
13 of-pocket costs incurred are not a copay, coinsurance, or other cost
14 sharing imposed by the individual's health insurer; and (5) that the
15 out-of-pocket costs of the vaccine represent an undue financial
16 burden to the individual. A person who submits a false certification
17 will be required to repay to the DOH the full amount of any
18 reimbursement received from the program, and will be liable to a
19 civil penalty of up to \$1,000, to be collected by and in the name of
20 the DOH.

21 Although several vaccines against COVID-19 have shown
22 promise in preventing against the spread of the disease, the
23 development of COVID-19 vaccines has proceeded at an
24 unprecedented pace, and the vaccines first being made available to
25 the general public have not completed the full process ordinarily
26 mandated by the U.S. Food and Drug Administration to ensure the
27 safety of new drugs and devices for human use.

28 It is the sponsor's belief that, until there is a fuller record
29 concerning the safety, effectiveness, and long-term effects of the
30 COVID-19 vaccines being made available to the general public,
31 these vaccines should not be made mandatory outside of certain
32 health care settings.