

These amendments make this bill identical to
Assembly No. 3818 (2R)

SENATE AMENDMENTS
(Proposed by Senator WEINBERG)

to

[First Reprint]

SENATE, No. 2173

(Sponsored by Senators WEINBERG and VITALE)

REPLACE SECTION 1 TO READ:

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 'children in a public or private licensed child care center, or' students in a 'public or private' preschool program, 'for 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 ^{2,2} 'one of the following:

(1) ' ²(1) ² a. 'written' statement submitted ', using a standard form as shall be prescribed by the Commissioner of Health, ' to the 'public or private child care center, ' preschool program, elementary or secondary school, or institution of higher education, as applicable, by a licensed physician, doctor of osteopathy, 'or' advanced practice nurse '[, or physician assistant indicating] that includes: (1) the professional's full name and address, and the national provider identifier of the professional or the professional's collaborating physician; and (2) a statement ' that the vaccine is medically contraindicated for a specific period of time and the reasons for the medical contraindication, ' [based upon] which shall be ' valid medical reasons ' [as determined by regulation of the Commissioner of Health, which] that are consistent with guidelines issued by the Advisory Committee on Immunization Practices in the federal Centers for Disease Prevention. A medical exemption submitted pursuant to this subsection may be reviewed and subject to approval by the physician employed by or consulting for the

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local or county board of health. A medical exemption approved pursuant to this subsection¹ shall exempt the 'child or' student ', as applicable,¹ 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'²; 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 audit²【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. '【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 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.]²[A] Except as provided in subsection c. of this section, a² 'public or private child care center,'¹ preschool program, elementary or secondary school, or institution of higher education shall not exempt a 'child or' student¹, as applicable,¹ from a mandatory immunization unless the 'child or' student, or the 'child's or' student's parent or guardian if the 'child or' student is a minor, complies with all of the applicable requirements set forth in '[subsections] subsection'¹ a. '[and b.]'¹ of this section.

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

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

(a) set forth the child care center's, preschool program's, school's, or institution of higher education's policy with regard to admitting children or students, as applicable, who are not in full compliance with mandatory immunization requirements; and

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

(2) the child or student, or the child's or student's parent or guardian if the child or student is a minor, who is not in full compliance with mandatory immunization requirements and who does not meet the requirements for an exemption under subsection a. of this section provides written notice to the child care center, preschool program, school, or institution of higher education identifying which immunization requirements the child or student is not in compliance with, and additionally signs a form that states the child or student, or the child's or student's parent or guardian, as applicable, understands the risks and benefits of vaccination to the child or student and the public health, and acknowledges that the child or student may be excluded from attendance 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 children or students;

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

(4) the child care center, preschool program, school, or institution of higher education shall retain the authority to exclude a child or student from attendance 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 children or students.

d.² 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 ²including requirements concerning the format of acknowledgement forms used by nonpublic elementary and secondary schools for the purposes of complying with subsection c. of this section²; 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)

REPLACE SECTION 4 TO READ:

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

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

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

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

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

d. The information contained in the registry shall be used for [the following] purposes including, but not limited to:

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

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

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

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

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

g. [An authorized user granted access as provided in subsection c. of this section shall only access information in the registry on a specific patient or client who is presently receiving services, is under the user's care or is within the applicable governmental health authority's jurisdiction.] ²[(deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)] An authorized user granted access as provided in subsection c. of this section shall only access information in the registry on a specific patient or client who is presently receiving

services, is under the user's care or is within the applicable governmental health authority's jurisdiction.²

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

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

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

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

- (1) the establishment and maintenance of the registry;
- (2) the methods for submitting, and the content of, reports of immunizations to the registry, for which purpose the commissioner shall provide, to the maximum extent practicable, for reporting options to facilitate compliance with the requirements of subsection b. of this section;
- (3) procedures for the birth hospital of a newborn infant or health care provider, as applicable, to inform the parent or legal guardian of a newborn infant or minor of the purpose of the registry and its potential uses by parties having authorized access to registry information, and the content of that information;
- (4) procedures for a registrant, or the registrant's parent or legal guardian if the registrant is a minor, to review and correct information contained in the registry;
- (5) procedures for the parent or legal guardian of a newborn infant or minor, or a person over 18 years of age, to request to not participate in the registry at any time and to remove or inactivate information from the registry;
- (6) limits on, and methods of, access to the registry by those authorized pursuant to subsection c. of this section;

- (7) procedures for health insurers to obtain immunization information from the registry concerning only their covered persons, as well as summary statistics, which information or statistics shall not be used or disclosed for any other purpose than to:
- (a) improve patient care;
 - (b) provide quality assurance to employers purchasing group coverage and to health care providers;
 - (c) improve outreach and education efforts with respect to their covered persons and health care providers; and
 - (d) monitor and improve quality of care standards as developed by professional organizations, accreditation agencies and government agencies in collaboration with the department; and
- (8) procedures for the department to disseminate statistical information and supporting commentary.¹
- (cf: P.L.2012, c.17, s.340)

STATEMENT

The Senate floor amendments authorize an exemption from mandatory immunization requirements for a child or student who has a sibling who experienced a vaccine injury. To qualify for the exemption, the child or student will be required to submit to the Department of Health 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 will be submitted to the school or child care center by the child or student, or by the child or student's parent or guardian, if the child or student is a minor.

The amendments allow nonpublic child care centers, preschool programs, elementary and secondary schools, and institutions of higher education to adopt a policy authorizing the admission of children and students who are not in full compliance with mandatory immunization requirements and who do not meet the requirements for a medical or sibling vaccine injury exemption, provided that the facility requires each child or student enrolled in the child care center, preschool program, school, or institution of higher education, or the child's or student's parent or guardian if the child or student is a minor, to sign an acknowledgement form, at the time of enrollment, that sets forth the facility's policy with regard to admitting children or students who are not in full compliance with mandatory immunization requirements and indicates the immunization rates for the facility for the prior academic year.

The child care center, preschool program, school, or institution of higher education will additionally be required to prominently post its policy concerning the admission of children or students who are not

fully immunized and the facility's immunization rates for the prior academic year at each entrance to the facility. The Commissioner of Health will be required to adopt rules and regulations concerning the format of acknowledgement forms used by nonpublic schools for this purpose.

A child or student who is not in compliance with mandatory immunization requirements who seeks to attend the child care center, preschool program, school, or institution of higher education will be required to provide the facility with written notice of which specific immunization requirements the child or student is not in compliance with and sign a form that states that the child or student, or the child or student's parent or guardian, as applicable, understands the risks and benefits of vaccination and acknowledges that the child or student may be excluded from attendance in the event of the occurrence of a communicable disease or condition or threat of a communicable disease or condition.

The committee amendments restore language in the New Jersey Immunization Information System law that was deleted by prior amendment concerning who may access the system, and instead delete a provision of current law providing that an agency, organization, or other entity authorized to access information in the NJIIS may not use any report made by a health care provider in any punitive manner against the provider.