

ASSEMBLY, No. 1576

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Co-Sponsored by:

**Assemblyman Benson, Assemblywoman Handlin and Assemblyman
Caputo**

SYNOPSIS

Requires certain health care facilities to offer, and health care workers to receive, annual influenza vaccination.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning influenza vaccination of certain health care
2 workers and supplementing Title 26 of the Revised Statutes.

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

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7 1. a. As used in this act:

8 “Commissioner” means the Commissioner of Health.

9 “Health care facility” means a general or special hospital,
10 nursing home, or home health care agency licensed pursuant to
11 P.L.1971, c.136 (C.26:2H-1 et seq.).

12 “Health care worker” means a person employed by a health care
13 facility who provides direct patient care or otherwise has contact
14 with patients.

15 b. Commencing with the 2013-2014 influenza season, each
16 health care facility shall establish and implement an annual
17 influenza vaccination program in accordance with the current
18 recommendations of the Advisory Committee on Immunization
19 Practices of the federal Centers for Disease Control and Prevention
20 and any rules and regulations adopted by the commissioner
21 pursuant to this act.

22 c. For the purposes of its annual influenza vaccination
23 program, each health care facility shall:

24 (1) annually offer to provide an on-site or off-site influenza
25 vaccination to each of its health care workers;

26 (2) require that each health care worker at the facility receive an
27 influenza vaccination provided by the health care facility, except
28 that a health care worker may, in lieu of receiving the influenza
29 vaccination at the facility, present acceptable proof, including an
30 attestation from the health care worker, of a current influenza
31 vaccination if the health care worker receives the vaccination from
32 another vaccination source, or sign a written declination statement;

33 (3) maintain a record or attestation, as applicable, of influenza
34 vaccinations for each health care worker, retain each signed
35 declination statement from a health care worker who elects not to
36 receive an influenza vaccination, and report to the Department of
37 Health, in a manner and according to a schedule prescribed by the
38 commissioner, the vaccination percentage rate of its health care
39 workforce in receiving influenza vaccinations as part of the
40 facility’s annual vaccination program or by other means as attested
41 to by the health care workforce, as applicable. The report may also
42 include other information that the facility deems relevant to its
43 vaccination percentage rate, including, but not limited to, the
44 number of health care workers who signed declination statements
45 that the facility has received;

46 (4) provide an educational component to its program that is
47 designed to inform health care workers about: influenza

1 vaccination; non-vaccine influenza control measures; and the
2 symptoms, transmission, and potential impact of influenza; and

3 (5) annually conduct an evaluation of the program with the goal
4 of improving the rate of vaccination among its health care workers.

5 d. A health care facility may suspend its annual offer of
6 influenza vaccination pursuant to this act in the event of a shortage
7 of influenza vaccine as determined by the commissioner.

8 e. (1) Any determination by the commissioner of
9 noncompliance by a health care facility or any of its health care
10 workers with the provisions of this act, based upon an inspection or
11 survey conducted by the Department of Health pursuant to section 5
12 of P.L.1971, c.136 (C.26:2H-5), or as otherwise determined by the
13 commissioner, shall not constitute a licensure violation or
14 deficiency with respect to that facility for the purposes of P.L.1971,
15 c.136 (C.26:2H-1 et seq.), or any rules and regulations adopted
16 pursuant thereto.

17 (2) The commissioner shall seek to minimize any record-
18 keeping burden imposed on a health care facility pursuant to this act
19 and shall take such actions as are necessary to ensure the
20 confidentiality of any data furnished to the department pursuant to
21 this act that may contain information identifying an individual
22 health care worker.

23 (3) The commissioner shall make available to the public
24 aggregate data reported by a facility pursuant to paragraph (3) of
25 subsection c. of this section.

26 f. A health care facility shall not discharge or reduce the pay of
27 a health care worker who declines to receive an influenza
28 vaccination.

29 g. Nothing in this section shall be construed to prohibit a health
30 care facility from taking measures to protect its patients in the event
31 that a health care worker declines to receive an influenza
32 vaccination, which measures may include, but are not limited to,
33 relocation or change of assignment of a health care worker.

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35 2. No later than August 1st of each year, the commissioner
36 shall report to the Governor, and to the Legislature pursuant to
37 section 2 of P.L.1991, c.164 (C.52:14-19.1), on the vaccination
38 percentage rates of health care workers for the prior influenza
39 season.

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41 3. The Commissioner of Health, pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B- 1 et
43 seq.), shall adopt rules and regulations as necessary to implement
44 the provisions of this act.

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46 4. This act shall take effect immediately.

STATEMENT

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This bill requires health care facilities to annually offer influenza vaccination to their health care workers, commencing with the 2013-2014 influenza season.

Specifically, each health care facility is to establish and implement an annual influenza vaccination program in accordance with the current recommendations of the Advisory Committee on Immunization Practices of the federal Centers for Disease Control and Prevention and any rules and regulations adopted by the Commissioner of Health.

The bill would apply to a general or special hospital, nursing home, or home health care agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), and to any “health care worker” (a person employed by a health care facility who provides direct patient care or otherwise has contact with patients).

The bill would require that a health care facility annually offer on-site or off-site influenza vaccinations to its health care workers, and they would be required to receive an influenza vaccination, but would be permitted to present acceptable proof, including an attestation by the health care worker, of a current influenza vaccination from another vaccination source, or sign a written declination statement. Each facility would be required to maintain a record of influenza vaccinations, retain each signed attestation and declination statement, and report to the Department of Health (DOH) the vaccination percentage rate of its health care workforce as part of its program or by other means as attested to by the health care worker. Each facility would also be required to provide an educational component to its influenza vaccination program and annually evaluate the program with the goal of improving the rate of vaccination among its health care workers.

The bill authorizes a health care facility to suspend its annual offer of influenza vaccination in the event of a shortage of influenza vaccine as determined by the commissioner.

The bill provides that any determination by the commissioner of noncompliance by a health care facility or a health care worker with the provisions of the bill would not constitute a licensure violation or deficiency for the purposes of P.L.1971, c.136 (C.26:2H-1 et seq.), or any rules and regulations adopted pursuant thereto.

The commissioner is to seek to minimize any record-keeping burden on health care facilities pursuant to the bill and to take such actions as are necessary to ensure the confidentiality of any data furnished to DOH that may contain information identifying an individual health care worker.

The commissioner is further directed to make available to the public aggregate data reported by each health care facility regarding the vaccination percentage rate for its health care workforce.

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1 The bill prohibits a health care facility from discharging or
2 reducing the pay of a health care worker who declines to receive an
3 influenza vaccination. The bill is not to be construed to prohibit a
4 health care facility from taking measures to protect its patients,
5 including, but not limited to, relocation or change of assignment of
6 a health care worker who declines to receive an influenza
7 vaccination.

8 The commissioner is to report to the Governor and the
9 Legislature, no later than August 1st of each year, on the
10 vaccination percentage rates of health care workers for the prior
11 influenza season.