

[Second Reprint]

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)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

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

SYNOPSIS

Requires certain health care facilities to provide, and employees to receive, annual influenza vaccination.

CURRENT VERSION OF TEXT

As amended by the Senate on December 16, 2019.



(Sponsorship Updated As Of: 12/17/2019)

1 AN ACT concerning influenza vaccination ²[of certain ¹[health care
2 workers] employees¹]² and supplementing Title 26 of the Revised
3 Statutes.

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

7
8 1. a. As used in this act:

9 “Commissioner” means the Commissioner of Health.

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

13 ¹“Health care worker” means a person employed by a health
14 care facility who provides direct patient care or otherwise has
15 contact with patients.]¹

16 b. Commencing with the ¹[2013-2014] ²[2018-2019]¹ onset of
17 the first² influenza season ²next following the effective date of this
18 act², each health care facility shall establish and implement an
19 annual influenza vaccination program in accordance with the
20 current recommendations of the Advisory Committee on
21 Immunization Practices of the federal Centers for Disease Control
22 and Prevention and any rules and regulations adopted by the
23 commissioner pursuant to this act.

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

26 (1) annually ²[offer to]² provide an on-site or off-site influenza
27 vaccination to each of its ¹[health care workers] employees¹;

28 (2) require that each ¹[health care worker] employee¹ at the
29 facility receive an influenza vaccination ¹annually ²[between
30 October 1 and] , no later than² December 31 of the current
31 influenza season ²[,¹] as determined by the federal Centers for
32 Disease Control and Prevention, which vaccination shall be²
33 provided by the health care facility, except that ¹[a health care
34 worker] an employee¹ may, in lieu of receiving the influenza
35 vaccination at the facility, present acceptable proof, ²[including]
36 comprising:

37 (a)² an attestation from the ¹[health care worker] employee¹,
38 ²which shall be submitted in a form and manner designated by the
39 facility,² of a current influenza vaccination if the ¹[health care
40 worker] employee¹ receives the vaccination from another
41 vaccination source, ²[or sign a written declination statement] which
42 attestation shall include the lot number of the vaccination the
43 employee received 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:

¹Assembly AHE committee amendments adopted May 13, 2019.

²Senate floor amendments adopted December 16, 2019.

1 **(b) a medical exemption, which shall be submitted using a form**
2 **designated by the Department of Health, stating that the influenza**
3 **vaccination for that employee is medically contraindicated, as**
4 **enumerated by the Advisory Committee on Immunization Practices**
5 **of the federal Centers for Disease Control and Prevention. An**
6 **attestation of a medical exemption shall be subject to approval by**
7 **the facility following a review by the facility to confirm the medical**
8 **exemption is consistent with standards enumerated by the Advisory**
9 **Committee on Immunization Practices**²;

10 (3) maintain a record or attestation, as applicable, of influenza
11 vaccinations ²**and medical exemptions**² for each ²**[**¹**health care**
12 **worker]** **employee**¹, retain each signed declination statement from
13 ¹**[a health care worker]** **an]**² **employee**¹ ²**[**²**who elects not to receive**
14 **an influenza vaccination,]**² and report to the Department of Health,
15 in a manner and according to a schedule prescribed by the
16 commissioner, the vaccination percentage rate of its ¹**[health care]**¹
17 workforce in receiving influenza vaccinations as part of the
18 facility's annual vaccination program or by other means as attested
19 to by the ¹**[health care]**¹ workforce, as applicable. The report may
20 also include other information that the facility deems relevant to its
21 vaccination percentage rate, including, but not limited to, the
22 number of ¹**[health care workers]** **employees**¹ who ²**[**²**signed**
23 **declination statements that the facility has]**² received ²**medical**
24 **exemptions**²;

25 (4) provide an educational component to its program that is
26 designed to inform ¹**[health care workers]** **employees**¹ about:
27 influenza vaccination; non-vaccine influenza control measures; and
28 the symptoms, transmission, and potential impact of influenza;²**[**
29 **and]**²

30 (5) annually conduct an evaluation of the program with the goal
31 of improving the rate of vaccination among its ¹**[health care**
32 **workers]** **employees**¹ ²; **and**

33 **(6) require any employee who does not receive an influenza**
34 **vaccination to wear a surgical or procedural mask when in direct**
35 **contact with patients and in common areas, as specified in facility**
36 **policy, or to be removed from direct patient care responsibilities**
37 **during influenza season**².

38 d. A health care facility may suspend its annual ²**[offer of]**²
39 **influenza vaccination** ²**program**² pursuant to this act in the event of
40 a shortage of influenza vaccine as determined by the commissioner.

41 e. (1) ¹**[Any]** **The commissioner may assess such penalties and**
42 **take other actions against a health care facility, as provided in**
43 **P.L.1971, c.136 (C.26:2H-1 et seq.), or any rules and regulations**
44 **adopted pursuant thereto, for any**¹ determination by the
45 commissioner of noncompliance by a health care facility or any of
46 its ¹**[health care workers]** **employees**¹ with the provisions of this

1 act¹], based upon an inspection or survey conducted by the
2 Department of Health pursuant to section 5 of P.L.1971, c.136
3 (C.26:2H-5), or as otherwise determined by the commissioner, shall
4 not constitute a licensure violation or deficiency with respect to that
5 facility for the purposes of P.L.1971, c.136 (C.26:2H-1 et seq.), or
6 any rules and regulations adopted pursuant thereto¹.

7 (2) The commissioner shall seek to minimize any record-keeping
8 burden imposed on a health care facility pursuant to this act and
9 shall take such actions as are necessary to ensure the confidentiality
10 of any data furnished to the department pursuant to this act that may
11 contain information identifying an individual ¹[health care worker]
12 employee¹.

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

16 f. A health care facility shall not discharge or reduce the pay of
17 ²[a health care worker] an employee² who ²[declines to receive
18 an] receives a medical exemption from the annual² influenza
19 vaccination requirement².

20 g. Nothing in this section shall be construed to prohibit a health
21 care facility from ²[taking measures to protect its patients in the
22 event that ¹[a health care workers] an employee¹ declines to
23 receive an influenza vaccination, which measures may include, but
24 are not limited to, relocation or change of assignment of ¹[a health
25 care workers] an employee¹] adopting additional policies and
26 procedures with regard to the annual influenza vaccine that are not
27 inconsistent with the requirements of this section².

28
29 2. No later than August 1st of each year, the commissioner
30 shall report to the Governor, and to the Legislature pursuant to
31 section 2 of P.L.1991, c.164 (C.52:14-19.1), on the vaccination
32 percentage rates of health care workers for the prior influenza
33 season.

34
35 3. The Commissioner of Health, pursuant to the
36 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
37 seq.), shall adopt rules and regulations as necessary to implement
38 the provisions of this act.

39
40 4. This act shall take effect immediately.