

**ASSEMBLY, No. 969**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

**Assemblywoman Tucker and Assemblyman Zwicker**

**SYNOPSIS**

Clarifies statutory exemptions from mandatory immunization requirements for child care center and school attendance.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 1/27/2020)**

1 AN ACT concerning exemptions from mandatory immunization  
2 requirements and amending various parts of the statutory law.

3

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

6

7 1. Section 6 of P.L.1974, c.150 (C.26:1A-9.1) is amended to  
8 read as follows:

9 6. a. Provisions in the State Sanitary Code in implementation  
10 of **[this act]** P.L.1947, c.177 (C.26:1A-1 et seq.), or provisions  
11 otherwise set forth in statute or regulation, which require the  
12 immunization of children in a public or private licensed child care  
13 center, or students in a public or private preschool program,  
14 elementary or secondary school, or institution of higher education,  
15 shall provide for an exemption **[for pupils]** from such mandatory  
16 immunization **[if the parent or guardian of the pupil objects thereto**  
17 **in a written statement signed by the parent or guardian upon the**  
18 **ground that the proposed immunization interferes with the free**  
19 **exercise of the pupil's religious rights. This exemption may be**  
20 **suspended by the State Commissioner of Health during the**  
21 **existence of an emergency as determined by the State**  
22 **Commissioner of Health]** based upon:

23 (1) a statement submitted, using a standard form as shall be  
24 prescribed by the Commissioner of Health, to the public or private  
25 child care center, preschool program, elementary or secondary  
26 school, or institution of higher education, as applicable, by a  
27 licensed physician, doctor of osteopathy, or advanced practice nurse  
28 that includes: (a) the professional's full name and address, and the  
29 national provider identifier of the professional or the professional's  
30 collaborating physician; and (b) a statement that the vaccine is  
31 medically contraindicated for a specific period of time and the  
32 reasons for the medical contraindication, which shall be valid  
33 medical reasons that are consistent with guidelines issued by the  
34 Advisory Committee on Immunization Practices in the federal  
35 Centers for Disease Prevention. A medical exemption submitted  
36 pursuant to this paragraph may be reviewed and subject to approval  
37 by the physician employed by or consulting for the local or county  
38 board of health. A medical exemption approved pursuant to this  
39 paragraph shall exempt the child or student, as applicable, from the  
40 vaccination for the stated period of time. Subject to the provisions  
41 of subsection i. of section 4 of P.L.2004, c.138 (C.26:4-134), the  
42 professional issuing the statement shall additionally enter the  
43 statement into the child's or student's record in the New Jersey  
44 Immunization Information System established pursuant to the  
45 P.L.2004, c.138 (C.26:4-131 et seq.); 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.

1       (2) documentation establishing that the Department of Health  
2 has approved an exemption for the child or student on the grounds  
3 that a sibling of the child or student experienced a vaccine injury.  
4 A request for approval of a sibling vaccine injury exemption  
5 pursuant to this paragraph shall be submitted to the Department of  
6 Health by the child or student, or by the child's or student's parent  
7 or guardian if the child or student is a minor, on forms and in  
8 manner as shall be prescribed by the Commissioner of Health by  
9 regulation, and shall include documentation of a final determination  
10 of vaccine injury issued through the Vaccine Injury Compensation  
11 Program administered by the Health Resources and Services  
12 Administration in the United States Department of Health and  
13 Human Services or a final judgment issued by a court of competent  
14 jurisdiction that includes a finding of vaccine injury.  
15 Documentation of the department's approval of a sibling vaccine  
16 injury exemption pursuant to this paragraph shall be submitted to  
17 the public or private childcare center, elementary or secondary  
18 school, or institution of higher education, as applicable, by the child  
19 or student, or by the child's or student's parent or guardian if the  
20 child or student is a minor. Subject to the provisions of subsection  
21 i. of section 4 of P.L.2004, c.138 (C.26:4-134), the Department of  
22 Health shall additionally enter the statement into the child's or  
23 student's record in the New Jersey Immunization Information  
24 System established pursuant to the P.L.2004, c.138 (C.26:4-131 et  
25 seq.).

26       b. County and local boards of health shall have the authority to  
27 audit exemptions approved pursuant to subsection a. of this section.

28       c. Except as provided in subsection d. of this section, a public  
29 or private child care center, preschool program, elementary or  
30 secondary school, or institution of higher education shall not  
31 exempt a child or student, as applicable, from a mandatory  
32 immunization unless the child or student, or the child's or student's  
33 parent or guardian if the child or student is a minor, complies with  
34 all of the applicable requirements set forth in subsection a. of this  
35 section.

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

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

1 in the child care center, preschool program, school, or institution of  
2 higher education, which acknowledgement form shall:  
3 (a) set forth the child care center's, preschool program's,  
4 school's, or institution of higher education's policy with regard to  
5 admitting children or students, as applicable, who are not in full  
6 compliance with mandatory immunization requirements; and  
7 (b) indicate the immunization rates for the child care center,  
8 preschool program, school, or institution of higher education for the  
9 prior academic year;  
10 (2) the child or student, or the child's or student's parent or  
11 guardian if the child or student is a minor, who is not in full  
12 compliance with mandatory immunization requirements and who  
13 does not meet the requirements for an exemption under subsection  
14 a. of this section provides written notice to the child care center,  
15 preschool program, school, or institution of higher education  
16 identifying which immunization requirements the child or student is  
17 not in compliance with, and additionally signs a form that states the  
18 child or student, or the child's or student's parent or guardian, as  
19 applicable, understands the risks and benefits of vaccination to the  
20 child or student and the public health, and acknowledges that the  
21 child or student may be excluded from attendance in the event of  
22 the occurrence of a communicable disease or condition or threat of  
23 a communicable disease or condition, which in the opinion of the  
24 Commissioner of Health requires such exclusion from attendance of  
25 unvaccinated children or students;  
26 (3) the child care center, preschool program, school, or  
27 institution of higher education prominently posts its policy with  
28 regard to admitting children or students, as applicable, who are not  
29 in full compliance with mandatory immunization requirements, and  
30 the immunization rates for the child care center, preschool program,  
31 school, or institution of higher education for the prior academic  
32 year, at each entrance to the child care center, preschool, school, or  
33 institution of higher education; and  
34 (4) the child care center, preschool program, school, or  
35 institution of higher education shall retain the authority to exclude a  
36 child or student from attendance in the event of the occurrence of a  
37 communicable disease or condition or threat of a communicable  
38 disease or condition which, in the opinion of the Commissioner of  
39 Health, requires such exclusion from attendance of unvaccinated  
40 children or students.  
41 e. The Commissioner of Health, pursuant to the  
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
43 1 et seq.), shall adopt rules and regulations to effectuate the  
44 purposes of this section, including requirements concerning the  
45 format of acknowledgement forms used for the purposes of  
46 complying with subsection d. of this section; except that,  
47 notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et  
48 seq.) to the contrary, the commissioner may adopt, immediately

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

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

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

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

22 b. a written statement submitted to the secondary school or  
23 institution of higher education, as applicable, by the student, or the  
24 student's parent or guardian if the student is a minor, explaining  
25 how the administration of the vaccine conflicts with the bona fide  
26 religious tenets or practices of the student, or the parent or guardian,  
27 as appropriate; except that a general philosophical or moral  
28 objection to the vaccination shall not be sufficient for an exemption  
29 on religious grounds **】** P.L.2002, c.58 (C.18A:61D-9 or C.18A:40-  
30 21.1) if the student qualifies for an exemption as provided in section  
31 6 of P.L.1974, c.150 (C.26:1A-9.1).  
32 (cf: P.L.2002, c.58, s.4)

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

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

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

46 (2) a written statement submitted to the institution of higher  
47 education by the student, or the student's parent or guardian if the  
48 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 4. 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.

47 e. The authentic immunization and other preventive health  
48 screening record of a child, which shall consist of a paper or

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

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

11 g. An authorized user granted access as provided in subsection  
12 c. of this section shall only access information in the registry on a  
13 specific patient or client who is presently receiving services, is  
14 under the user's care or is within the applicable governmental health  
15 authority's jurisdiction.

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

21 i. A record of an exemption from a mandatory immunization  
22 on the grounds of medical contraindication or sibling vaccine injury  
23 shall be included in the registry along with supporting  
24 documentation. Within one year after the effective date of P.L. \_\_\_\_\_,  
25 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill), the  
26 registry shall be updated with the capability to allow for the  
27 inclusion in the registry of relevant forms provided by the  
28 Department of Health, including:

29 (1) the form or equivalent information included in the form  
30 prescribed by the Commissioner of Health upon which a health care  
31 professional provides the reasons for the issuance of a medical  
32 exemption to a mandatory immunization, including the name,  
33 address, and national provider identifier of the health care  
34 professional responsible for completing the prescribed form; and

35 (2) the documentation of sibling vaccine injury required for  
36 issuance of a sibling vaccine injury exemption to mandatory  
37 immunization.

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

43 **[i.]** j. The commissioner, in consultation with the Public Health  
44 Council, shall adopt rules and regulations, pursuant to the  
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
46 1 et seq.), to effectuate the purposes of this act, including, but not  
47 limited to:

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

1 (2) the methods for submitting, and the content of, reports of  
2 immunizations to the registry, for which purpose the commissioner  
3 shall provide, to the maximum extent practicable, for reporting  
4 options to facilitate compliance with the requirements of subsection  
5 b. of this section;

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

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

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

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

20 (7) procedures for health insurers to obtain immunization  
21 information from the registry concerning only their covered  
22 persons, as well as summary statistics, which information or  
23 statistics shall not be used or disclosed for any other purpose than  
24 to:

25 (a) improve patient care;

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

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

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

33 (8) procedures for the department to disseminate statistical  
34 information and supporting commentary.

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

36

37 5. Section 5 of P.L.1983, c.492 (C.30:5B-5) is amended to read  
38 as follows:

39 5. a. The department shall have responsibility and authority to  
40 license and inspect child care centers. The commissioner shall  
41 promulgate rules and regulations for the operation and maintenance  
42 of child care centers which shall prescribe standards governing the  
43 safety and adequacy of the physical plant or facilities; the  
44 education, health, safety, general well-being and physical and  
45 intellectual development of the children; the quality and quantity of  
46 food served; the number of staff and the qualifications of each staff  
47 member; the implementation of a developmentally appropriate  
48 program; the maintenance and confidentiality of records and



1 furnishing of required information; the transportation of children;  
2 and the administration of the center. The commissioner shall also  
3 promulgate rules and regulations for license application, issuance,  
4 renewal, expiration, denial, suspension and revocation. In  
5 developing, revising or amending such rules and regulations, the  
6 commissioner shall consult with the Child Care Advisory Council  
7 created pursuant to section 14 of P.L.1983, c.492 (C.30:5B-14), and  
8 with other appropriate administrative officers and agencies,  
9 including the Departments of Health **【and Senior Services】**,  
10 Education, Labor, Community Affairs and the **【Division of Motor**  
11 **Vehicles】** Motor Vehicle Commission giving due weight to their  
12 recommendations. The rules and regulations promulgated pursuant  
13 to this act shall be adopted and amended in accordance with the  
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
15 seq.).

16 b. The department shall conduct an on site facility inspection  
17 and shall evaluate the program of the child care center to determine  
18 whether the center complies with the provisions of this act.

19 c. Any rule or regulation involving physical examination **【**,  
20 immunization**】** or medical treatment other than immunization shall  
21 include an appropriate exemption for any child whose parent or  
22 parents object thereto on the ground that it conflicts with the tenets  
23 and practice of a recognized church or religious denomination of  
24 which the parent or child is an adherent or member.

25 d. The department shall have the authority to inspect and  
26 examine the physical plant or facilities of a child care center and to  
27 inspect all documents, records, files or other data maintained  
28 pursuant to this act during normal operating hours and without prior  
29 notice.

30 e. The department shall request the appropriate State and local  
31 fire, health and building officials to conduct examinations and  
32 inspections to determine compliance with State and local  
33 ordinances, codes and regulations by a child care center. The  
34 inspections shall be conducted and the results reported to the  
35 department within 60 days after the request.

36 f. Nothing in this act shall be interpreted to permit the adoption  
37 of any code or standard which exceeds the standards established  
38 pursuant to the "State Uniform Construction Code Act," P.L.1975,  
39 c.217 (C.52:27D-119 et seq.).

40 g. Any rules and regulations adopted by the department  
41 pursuant to this act prescribing standards governing the safety and  
42 adequacy of the physical plant or facilities of child care centers  
43 shall not apply to a child care center operated by a nonprofit  
44 organization in a public school building used as a public school.

45 (cf: P.L.2000, c.122, s.2)



1 NJIIS to be updated no later than one year after the effective date of  
2 the bill to allow for the inclusion of medical exemption information,  
3 and to allow for a printable report of information included in the  
4 registry.

5 The bill prohibits a public child care center, elementary or  
6 secondary school, or institution of higher education from exempting  
7 a child or student from a mandatory immunization unless the child  
8 or student, or the child's or student's parent or guardian if the child  
9 or student is a minor, complies with all of the applicable  
10 requirements set forth in the bill.

11 The bill allows nonpublic child care centers, preschool programs,  
12 elementary and secondary schools, and institutions of higher  
13 education to adopt a policy authorizing the admission of children  
14 and students who are not in full compliance with mandatory  
15 immunization requirements and who do not meet the requirements  
16 for a medical or sibling vaccine injury exemption, provided that the  
17 facility requires each child or student enrolled in the child care  
18 center, preschool program, school, or institution of higher  
19 education, or the child's or student's parent or guardian if the child  
20 or student is a minor, to sign an acknowledgement form, at the time  
21 of enrollment, that sets forth the facility's policy with regard to  
22 admitting children or students who are not in full compliance with  
23 mandatory immunization requirements, and that indicates the  
24 immunization rates for the facility for the prior academic year. The  
25 child care center, preschool program, school, or institution of higher  
26 education will additionally be required to prominently post its  
27 policy concerning the admission of children or students who are not  
28 fully immunized, and the facility's immunization rates for the prior  
29 academic year, at each entrance to the facility. The Commissioner  
30 of Health will be required to adopt rules and regulations concerning  
31 the format of acknowledgement forms used by nonpublic schools  
32 for this purpose.

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

44 The bill provides that the current statutory list of uses for the  
45 NJIIS is nonexclusive. The bill additionally removes a provision of  
46 current law that provides that an agency, organization, or other  
47 entity authorized to access information in the NJIIS may not use

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1 any report made by a health care provider in any punitive manner  
2 against the provider.

3 The bill provides the Commissioner of Health with expedited  
4 rulemaking authority in order to provide guidance to child care  
5 centers, schools, and public health authorities, as they will need to  
6 implement its provisions on a timely basis, including creating  
7 acknowledgement forms that may be used by nonpublic institutions  
8 that admit children and students who are not fully compliant with  
9 mandatory immunization requirements.

10 The provisions of the bill will take effect 180 days after the date  
11 of enactment.