SENATE, No. 2669

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 6, 2020

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

SYNOPSIS

Revises and codifies schedule for childhood lead screening along with other immunization and wellness checks as precondition of child's initial entry into school system.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning childhood lead poisoning prevention, amending P.L.1995, c.316, and amending and supplementing P.L.1995, c.328.

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

1. (New section) a. Every physician, registered professional nurse, or health care facility, agency, or program that is subject to the provisions of section 3 of P.L.1995, c.328 (C.26:2-137.4) shall perform lead screening on each patient between six months and six years of age, in accordance with the schedule specified in this section.

b. A child shall be screened for lead poisoning, during the regular course of a well visit:

(1) when the child is between nine and 18 months of age; preferably on the date of, or as close as possible to, the child's first birthday;

(2) at least six months after the first lead screening test, when the child is between 18 and 26 months of age; preferably on the date of, or as close as possible to, the child's second birthday; and

(3) immediately prior to the child's initial enrollment in school.

c. Notwithstanding the provisions of the "Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), and the regulations adopted thereunder, to the contrary, a physician, registered professional nurse, or health care facility, agency, or program performing lead screening in accordance with the provisions of this section and the provisions of P.L.1995, c.328 (C.26:2-137.2 et seq.) may perform the screening on-site, at the point of care, during the course of a well visit, without the need to obtain a laboratory license pursuant to the "Clinical Laboratory Improvement Act." However, any such person, facility, agency, or program that performs point-of-care lead screening tests without a laboratory license, as provided by this subsection, shall remain subject to, and shall continue to comply with, the other applicable provisions of P.L.1975, c.166 (C.45:9-42.26 et seq.), and the regulations adopted pursuant thereto, which relate to laboratory performance, quality control, and proficiency testing; laboratory sanitation, safety, and staffing; the maintenance of laboratory equipment; the acceptance, collection, transportation, identification, and examination of laboratory specimens; and laboratory reporting.

d. The physician, registered professional nurse, or health care facility, agency, or program performing lead screening in accordance with the provisions of this section and the provisions of P.L.1995, c.328 (C.26:2-137.2 et seq.) shall record in the child's

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 <u>thus</u> is new matter.

permanent health record, the date the test was administered, and the results of the test. Any such information, which has been incorporated into the child's permanent health record, shall also be noted on any physical examination form that a public or private school or school system requires parents or guardians to submit as a condition of school admission or enrollment.

e. The principal, director, or other person in charge of a public or private school in this State shall not knowingly admit or enroll in a pre-kindergarten or kindergarten class, as appropriate, any child whose parent or guardian has failed to submit acceptable documentation showing the child's test results for lead screening conducted in accordance with the provisions of paragraph (3) of subsection b. of this section. If the documentation submitted by the child's parent or guardian indicates that the child has not yet been screened for lead poisoning in accordance with the provisions of paragraph (3) of subsection b. of this section, the child's initial enrollment in school shall be deferred until such time as the child has been screened for lead poisoning, in accordance with the provisions of that paragraph, and acceptable documentation showing the results of that test have been submitted to the school.

f. As used in this section:

"Acceptable documentation" means a paper or electronic copy of a health record or other official medical documentation that indicates the child's lead screening results. "Acceptable documentation" includes, but is not limited to, a physical examination form that is prepared by a physician or other health care practitioner, and submitted to a school, specifically to verify a child's medical and vaccination history for the purposes of school enrollment and attendance.

"Initial enrollment in school" means the enrollment of a child in a public or private pre-kindergarten class, or the enrollment of a child in a public or private kindergarten class, whichever occurs first.

2. Section 7 of P.L.1995, c.316 (C.26:2-137.1) is amended to read as follows:

7. The Department of Health shall specify by regulation, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.):

a. The lead screening requirements provided for under P.L.1995, c.316 (C.17:48E-35.10 et al.), including the age of the child when initial screening should be conducted, the time intervals between screening, when follow-up testing is required, the methods that shall be used to conduct **[**the**]** lead screening, and, in accordance with the latest recommendations of the federal Centers for Disease Control and Prevention and the provisions of P.L.1995, c.328 (C.26:2-137.2 et seq.), the level of lead in the

bloodstream that shall necessitate the undertaking of responsive action . Any regulations adopted pursuant to this subsection shall be consistent with the provisions of P.L.1995, c.328 (C.26:2-137.2 et seq.) and section 1 of P.L. , c. (C.) (pending before the Legislature as this bill); and

b. The childhood immunizations recommended by the Advisory Committee on Immunization Practices of the United States Public Health Service and the Department of Health.

(cf: P.L.2017, c.7, s.2)

3. Section 3 of P.L.1995, c.328 (C.26:2-137.4) is amended to read as follows:

3. a. A physician or registered professional nurse, as appropriate, shall perform lead screening on each patient under six years of age to whom the physician or registered professional nurse provides health care services, in accordance with the timeframes established pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), unless the physician or registered professional nurse has knowledge that the child has already undergone lead screening in accordance with the requirements of **[**this act**]** P.L.1995, c.328 (C.26:2-137.2 et seq.) and section 1 of P.L. , c. (C.) (pending before the Legislature as this bill). If the physician, registered professional nurse, or an authorized staff member cannot perform the required lead screening, the physician or registered professional nurse may refer the patient, in writing, to another physician, registered professional nurse, health care facility, or designated agency or program which is able to perform the lead screening.

b. A health care facility that serves children and is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), and any other agency or program that serves children and is designated by the commissioner to perform lead screening, shall perform lead screening on each child under six years of age that the facility, agency, or program serves, in accordance with the timeframes established pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), unless the facility, agency, or program has knowledge that the child has already undergone lead screening in accordance with the requirements of **[**this act**]** P.L.1995, c.328 (C.26:2-137.2 et seq.) and section 1 of P.L. , c. (C.) (pending before the Legislature as this bill). If the health care facility, agency, or program cannot perform the required lead screening, the facility, agency, or program may refer the patient, in writing, to another health care facility, physician, registered professional nurse, or other designated agency or program which is able to perform the lead screening.

c. If **[**a physician, registered professional nurse, or health care facility, agency, or program receives laboratory**]** lead screening test

results [indicating] indicate that a child has an elevated blood lead level, the physician, registered professional nurse, or health care facility, agency, or program shall notify the parent or guardian of the child, in writing, about the test results, and shall additionally provide the parent or guardian with an explanation, in plain language, of the significance of lead poisoning. The physician, registered professional nurse, or health care facility, agency, or program shall also take appropriate measures to ensure that any of the child's siblings or other members of the household who are under the age of six either are, or have been, screened for lead exposure.

d. A physician, registered professional nurse, or health care facility, agency, or program shall not be required to conduct lead screening under this act if the parent or guardian of the child objects to the testing in writing.

e. (1) The department shall specify, by regulation, [the parameters for lead screening required under this act, including the age of the child when initial screening shall be conducted, the time intervals between screening, when follow-up testing is required, and] the methods that shall be used by physicians, registered professional nurses, and health care facilities, agencies, or programs to conduct the lead screening in accordance with the provisions of P.L.1995, c.328 (C.26:2-137.2 et seq.) and section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), and the conditions and circumstances that will necessitate the use of follow-up testing.

(2) (a) The department shall additionally specify, by regulation, in accordance with the most recent recommendations of the federal Centers for Disease Control and Prevention, the elevated blood lead levels that require responsive action under this act, and the types of responsive action, including environmental follow-up, notice to the family, additional screening of family members, the provision of case management services, and the provision of medical treatment such as chelation therapy, that shall be undertaken when a screening test reveals an elevated blood lead level. The levels of responsive action required by the department pursuant to this paragraph may vary, consistent with the latest recommendations of the federal Centers for Disease Control and Prevention, based on the severity of the elevated blood lead level.

(b) Within 30 days after the enactment of P.L.2017, c.7, and on a biennial basis thereafter, the department shall review and appropriately revise its rules and regulations pertaining to elevated blood lead levels, in order to ensure that they appropriately reflect, and are consistent with, the latest guidance from the federal Centers for Disease Control and Prevention.

f. The department shall develop a mechanism, such as distribution of lead screening record cards or other appropriate

means, by which children who have undergone lead screening can be identified by physicians, registered professional nurses, and health care facilities, agencies, and programs that perform lead screening, so as to avoid duplicate lead screening of children.

g. The department shall continuously engage in a public information and educational outreach campaign to inform the parents and guardians of young children, as well as physicians, registered professional nurses, and other health care providers, **[**of**]** about the lead screening requirements **[**of this act**]** established by P.L.1995, c.328 (C.26:2-137.2 et seq.), and about the lead screening schedule, and conditions for initial school enrollment, which have been established by section 1 of P.L. , c. (C.) (pending before the Legislature as this bill). Any information or documentation that is prepared for purposes of the public information and educational outreach campaign shall also be posted at a publicly accessible location on the department's Internet website.

At a minimum, the public information campaign shall: (1) highlight the importance of lead screening, and encourage parents, especially those who have not yet complied with the lead screening provisions of this act, to have their children screened for lead poisoning at regular intervals, in accordance with the age-based timeframes established by department regulation; and (2) provide for the widespread dissemination of information to parents and health care providers on the dangers of lead poisoning, the factors that contribute to lead poisoning, the recommended ages at which children should be tested for lead poisoning, and the elevated blood lead levels that require responsive action under this act. If the department changes the elevated blood lead levels that require responsive action under this act, as may be necessary to conform its regulations to federal guidance, the information disseminated through the public information campaign shall be appropriately revised to reflect the new action levels, and shall be reissued to parents and health care providers, within 30 days after the change is implemented.

h. The department, to the greatest extent possible, shall coordinate payment for lead screening **[**required pursuant to this act**]** with the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and other federal children's health programs, **[**so as**]** in order to ensure that the State receives the maximum amount of federal financial participation available for the lead screening services provided pursuant to **[**this act**]** P.L.1995, c.328 (C.26:2-137.2 et seq.) and section 1 of P.L. , c. (C.) (pending before the Legislature as this bill).

(cf: P.L.2017, c.7, s.5)

4. The Commissioners of Health and Education, in consultation with each other, shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to implement the provisions of this act.

5. This act shall take effect immediately.

STATEMENT

This bill would strengthen the existing State requirements for childhood lead screening by: (1) codifying, in the statutory law, the existing schedule for childhood lead screening that appears in regulations adopted by the Department of Health (DOH); (2) requiring a child to undergo three screening tests, as opposed to the two that are currently required by the DOH; (3) allowing doctors to perform lead screening at the point-of-care, in the regular course of a well visit; and (4) requiring a child's parent or guardian to provide the child's school with documentation showing the child's lead screening results, as a precondition of the child's initial entry into the school system.

The bill would specify, in particular, that every physician, registered professional nurse, or health care facility, agency, or program that is subject to the provisions of the State's childhood lead poisoning prevention act, will be required to perform lead screening on each patient between six months and six years of age to whom services are provided, during the course of a well visit, in accordance with the following schedule:

(1) when the child is between nine and 18 months of age; preferably on the date of, or as close as possible to, the child's first birthday;

(2) at least six months after the first lead screening test, when the child is between 18 and 26 months of age; preferably on the date of, or as close as possible to, the child's second birthday; and

(3) immediately prior to, and as a precondition of, the child's initial enrollment in school.

"Initial enrollment in school" is defined to mean the enrollment of a child in a public or private pre-kindergarten class, or the enrollment of a child in a public or private kindergarten class, whichever occurs first.

A physician, registered professional nurse, or health care facility, agency, or program performing lead screening in accordance with this schedule would be authorized to perform the screening on-site, at the point of care, during the course of a well visit, without the need to obtain a laboratory license pursuant to the State's "Clinical Laboratory Improvement Act" (NJCLIA) P.L.1975, c.166 (C.45:9-42.26 et seq.). However, any such person, facility, agency, or program that performs point-of-care lead screening tests without a

laboratory license would remain subject to, and would be required to comply with, the other applicable provisions of NJCLIA, and the regulations adopted pursuant thereto, which relate to laboratory performance, quality control, and proficiency testing; laboratory sanitation, safety, and staffing; the maintenance of laboratory equipment; the acceptance, collection, transportation, identification, and examination of laboratory specimens; and laboratory reporting.

The physician, registered professional nurse, or health care facility, agency, or program performing lead screening in accordance with the bill's provisions would be required to record in the child's permanent health record, the date on which any such test was administered, and the results of the test. Any such information, which has been incorporated into the child's permanent health record, would also need to be noted on any physical examination form that a public or private school or school system requires parents or guardians to submit as a condition of school admission or enrollment.

The principal, director, or other person in charge of a public or private school in this State would be prohibited from knowingly admitting or enrolling in a pre-kindergarten or kindergarten class, as appropriate, any child whose parent or guardian fails to submit acceptable documentation showing the child's test results for lead screening. If the documentation submitted by the child's parent or guardian indicates that the child has not yet been screened for lead poisoning in accordance with that testing requirement, the child's initial enrollment in school is to be deferred until such time as the child has been so screened, and acceptable documentation showing the results of that screening test have been submitted to the school.

The bill would require the DOH to modify its existing public information campaign, in order to inform the parents and guardians of small children, as well as physicians, registered professional nurses, and other health care providers, about the lead screening schedule and requirements, and the conditions for initial school enrollment, that have been established by the bill. Any information or documentation that is prepared for these purposes would also be posted at a publicly accessible location on the DOH Internet website.

Finally, the bill would clarify that any DOH regulations, which are adopted pursuant to P.L.1995, c.316 (C.17:48E-35.10 et al.) in association with the provision of insurance coverage for lead screening, must be consistent with the revised provisions of P.L.1995, c.328 and the new screening schedule provided by section 1 of the bill.