

**SENATE, No. 1176**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED JANUARY 30, 2014

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



S1176 VITALE

2

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

3

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;

**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.

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- 1 (4) provide an educational component to its program that is  
2 designed to inform health care workers about: influenza  
3 vaccination; non-vaccine influenza control measures; and the  
4 symptoms, transmission, and potential impact of influenza; and  
5 (5) annually conduct an evaluation of the program with the goal  
6 of improving the rate of vaccination among its health care workers.  
7 d. A health care facility may suspend its annual offer of  
8 influenza vaccination pursuant to this act in the event of a shortage  
9 of influenza vaccine as determined by the commissioner.  
10 e. (1) Any determination by the commissioner of  
11 noncompliance by a health care facility or any of its health care  
12 workers with the provisions of this act, based upon an inspection or  
13 survey conducted by the Department of Health pursuant to section  
14 5 of P.L.1971, c.136 (C.26:2H-5), or as otherwise determined by the  
15 commissioner, shall not constitute a licensure violation or  
16 deficiency with respect to that facility for the purposes of P.L.1971,  
17 c.136 (C.26:2H-1 et seq.), or any rules and regulations adopted  
18 pursuant thereto.  
19 (2) The commissioner shall seek to minimize any record-  
20 keeping burden imposed on a health care facility pursuant to this act  
21 and shall take such actions as are necessary to ensure the  
22 confidentiality of any data furnished to the department pursuant to  
23 this act that may contain information identifying an individual  
24 health care worker.  
25 (3) The commissioner shall make available to the public  
26 aggregate data reported by a facility pursuant to paragraph (3) of  
27 subsection c. of this section.  
28 f. A health care facility shall not discharge or reduce the pay of  
29 a health care worker who declines to receive an influenza  
30 vaccination.  
31 g. Nothing in this section shall be construed to prohibit a health  
32 care facility from taking measures to protect its patients in the event  
33 that a health care worker declines to receive an influenza  
34 vaccination, which measures may include, but are not limited to,  
35 relocation or change of assignment of a health care worker.  
36  
37 2. No later than August 1st of each year, the commissioner  
38 shall report to the Governor, and to the Legislature pursuant to  
39 section 2 of P.L.1991, c.164 (C.52:14-19.1), on the vaccination  
40 percentage rates of health care workers for the prior influenza  
41 season.  
42  
43 3. The Commissioner of Health and Senior Services, pursuant  
44 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
45 1 et seq.), shall adopt rules and regulations as necessary to  
46 implement the provisions of this act.  
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48 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," defined as 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. A health care worker would be required to receive an influenza vaccination, but may 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 percentage vaccination rate of its health care workforce receiving influenza vaccinations, as part of the facility's program or by other means as attested to by the health care worker.

Each facility would further be required to provide an education 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.

A health care facility may 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 bill directs the commissioner to seek to minimize any record-keeping burden on health care facilities and to take such actions as are necessary to ensure the confidentiality of any data furnished to DOH pursuant to the bill.

The commissioner is further directed to make available to the public aggregate data reported by each facility regarding the vaccination rates at that facility.

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1 The commissioner is to report to the Governor and the  
2 Legislature, no later than August 1st of each year, on the  
3 vaccination rates of health care workers for the prior influenza  
4 season.

5 The bill updates references to the Department of Health, change  
6 the dates regarding the influenza season so that the bill applies to  
7 the 2013-2014 influenza season, provide that an attestation by a  
8 health care worker would be acceptable proof of an influenza  
9 vaccination received other than at the facility, clarify that facilities  
10 would be required to report to DOH percentage vaccination rates  
11 (rather than “compliance” rates), clarify that the records maintained  
12 by the facility would provide for those workers who receive  
13 vaccinations other than at the facility, and direct that the  
14 commissioner make aggregate data reported by a facility available  
15 to the public.