

SENATE, No. 801

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Clarifies statutory exemptions from mandatory immunizations for students.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S801 WEINBERG, VITALE

2

1 AN ACT concerning exemptions from mandatory immunizations for
2 students and amending P.L.1974, c.150, P.L.2002, c.58, and
3 P.L.2003, c.284.

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

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

10 6. a. Provisions in the State Sanitary Code in implementation
11 of **【this act】** P.L.1947, c.177 (C.26:1A-1 et seq.), or provisions
12 otherwise set forth in statute or regulation, which require the
13 immunization of students in a preschool program, or at an
14 elementary or secondary school or an institution of higher
15 education, shall provide for an exemption **【for pupils】** from such
16 mandatory immunization **【if the parent or guardian of the pupil**
17 objects thereto in a written statement signed by the parent or
18 guardian upon the ground that the proposed immunization interferes
19 with the free exercise of the pupil's religious rights. This
20 exemption**】** based upon one of the following:

21 (1) a written statement submitted to the preschool program,
22 elementary or secondary school, or institution of higher education,
23 as applicable, by a licensed physician, doctor of osteopathy,
24 advanced practice nurse, or physician assistant indicating that the
25 vaccine is medically contraindicated for a specific period of time
26 and the reasons for the medical contraindication, based upon valid
27 medical reasons as determined by regulation of the Commissioner
28 of Health, which shall exempt the student from the vaccination for
29 the stated period of time; or

30 (2) documentation, as set forth in subsection b. of this section,
31 which is submitted to the preschool program, elementary or
32 secondary school, or institution of higher education, as applicable,
33 by the student, or the student's parent or guardian if the student is a
34 minor, explaining how the administration of the vaccine conflicts
35 with the bona fide religious tenets or practices of the student, or the
36 parent or guardian, as appropriate; except that: a general
37 philosophical or moral objection to the vaccination shall not be
38 sufficient for an exemption on religious grounds; and an exemption
39 on religious grounds may be suspended by the **【State】**
40 Commissioner of Health during the existence of an emergency as
41 determined by the **【State Commissioner of Health】** commissioner.

42 b. The documentation required pursuant to paragraph (2) of
43 subsection a. of this section shall include a written statement, which
44 shall be notarized, signed, and sworn by the person submitting the
45 statement, and which shall include:

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 (1) an explanation of the nature of the person's religious tenet or
2 practice that is implicated by the vaccination and how
3 administration of the vaccine would violate, contradict, or otherwise
4 be inconsistent with that tenet or practice;

5 (2) information that indicates that the religious tenet or practice
6 is consistently held by the person, which may include, but need not
7 be limited to, expression of the person's intent to decline any
8 vaccination;

9 (3) a statement that the religious tenet or practice is not solely
10 an expression of that person's:

11 (a) political, sociological, philosophical, or moral views; or

12 (b) concerns related to the safety or efficacy of the vaccination;
13 and

14 (c) a statement that the person understands the risks and benefits
15 of vaccination to the student and the public health and
16 acknowledges that the student may be excluded from attendance at
17 the student's preschool, school, or institution of higher education, as
18 applicable, in the event of the occurrence of a communicable
19 disease or condition or threat of a communicable disease or
20 condition, which in the opinion of the Commissioner of
21 Commissioner of Health requires such exclusion from attendance of
22 unvaccinated students.

23 c. A preschool program, elementary or secondary school, or
24 institution of higher education shall not exempt a student from a
25 mandatory immunization unless the student, or the student's parent
26 or guardian if the student is a minor, complies with all of the
27 applicable requirements set forth in subsections a. and b. of this
28 section.

29 d. The Commissioner of Health, pursuant to the
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
31 seq.), shall adopt rules and regulations to effectuate the purposes of
32 this section; except that, notwithstanding any provision of P.L.1968,
33 c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may
34 adopt, immediately upon filing with the Office of Administrative
35 Law, such regulations as the commissioner deems necessary to
36 implement the provisions of this section, which shall be effective
37 for a period not to exceed six months and may thereafter be
38 amended, adopted, or re-adopted by the commissioner in
39 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
40 et seq.).

41 (cf: P.L.1974, c.150, s.6)

42

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

45 4. A student shall not be required to receive a vaccination
46 pursuant to section 2 or 3 of **[**this act based upon one of the
47 following:

S801 WEINBERG, VITALE

1 a. a written statement submitted to the secondary school or
2 institution of higher education, as applicable, by a licensed
3 physician indicating that the vaccine is medically contraindicated
4 for a specific period of time and the reasons for the medical
5 contraindication, based upon valid medical reasons as determined
6 by regulation of the Commissioner of Health and Senior Services,
7 which shall exempt the student from the vaccination for the stated
8 period of time; or

9 b. a written statement submitted to the secondary school or
10 institution of higher education, as applicable, by the student, or the
11 student's parent or guardian if the student is a minor, explaining
12 how the administration of the vaccine conflicts with the bona fide
13 religious tenets or practices of the student, or the parent or guardian,
14 as appropriate; except that a general philosophical or moral
15 objection to the vaccination shall not be sufficient for an exemption
16 on religious grounds **】** P.L.2002, c.58 (C.18A:61D-9 or C.18A:40-
17 21.1) if the student qualifies for an exemption as provided in section
18 6 of P.L.1974, c.150 (C.26:1A-9.1).
19 (cf: P.L.2002, c.58, s.4)
20

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

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

26 (1) a written statement submitted to the institution of higher
27 education by a licensed physician indicating that the vaccine is
28 medically contraindicated for a specific period of time and the
29 reasons for the medical contraindication, based upon valid medical
30 reasons as determined by regulation of the Commissioner of Health
31 and Senior Services, which shall exempt the student from the
32 vaccination for the stated period of time; or

33 (2) a written statement submitted to the institution of higher
34 education by the student, or the student's parent or guardian if the
35 student is a minor, explaining how the administration of the vaccine
36 conflicts with the bona fide religious tenets or practices of the
37 student, or the parent or guardian, as appropriate; except that a
38 general philosophical or moral objection to the vaccination shall not
39 be sufficient for an exemption on religious grounds **】** P.L.2003,
40 c.284 (C.18A:62-15.1) if the student qualifies for an exemption as
41 provided in section 6 of P.L.1974, c.170 (C.26:1A-9.1).

42 b. In the event of an actual or threatened outbreak of meningitis
43 at a public or private institution of higher education in this State,
44 the institution may exclude from attendance a student who has been
45 exempted from the vaccination requirement of this act pursuant to
46 subsection a. of this section, as determined by the Commissioner of
47 Health **【**and Senior Services**】**.
48 (cf: P.L.2003, c.284, s.3)

1 4. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill provides statutory clarification for the State policy
7 governing exemptions from immunizations of students that are
8 mandated by the Commissioner of Health by regulation or
9 otherwise required by law.

10 The bill stipulates that provisions in the State Sanitary Code, or
11 provisions otherwise set forth in statute or regulation, which require
12 the immunization of students at an elementary or secondary school
13 or an institution of higher education, are to provide for an
14 exemption from such mandatory immunization based upon one of
15 the following:

- 16 • a written statement submitted to the elementary or secondary
17 school or the institution of higher education, as applicable, by a
18 licensed physician indicating that the vaccine is medically
19 contraindicated for a specific period of time and the reasons for
20 the medical contraindication, based upon valid medical reasons as
21 determined by regulation of the Commissioner of Health, which
22 is to exempt the student from the vaccination for the stated period
23 of time; or
- 24 • documentation submitted to the elementary or secondary school
25 or the institution of higher education, as applicable, by the
26 student, or the student's parent or guardian if the student is a
27 minor, explaining how the administration of the vaccine conflicts
28 with the bona fide religious tenets or practices of the student, or
29 the parent or guardian, as appropriate; except that: a general
30 philosophical or moral objection to the vaccination is not
31 sufficient for an exemption on religious grounds; and an
32 exemption on religious grounds may be suspended by the
33 Commissioner of Health during the existence of an emergency as
34 determined by the commissioner.

35 The bill sets forth the specific elements that are required to
36 document that the administration of a vaccine conflicts with the
37 bona fide religious tenets or practices of a student, or a student's
38 parent or guardian, as appropriate. These include the following:

- 39 • a written statement, to be notarized, signed, and sworn by the
40 person submitting the statement, and which includes:
 - 41 -- an explanation of the nature of the person's religious tenet or
42 practice that is implicated by the vaccination and how
43 administration of the vaccine would violate, contradict, or otherwise
44 be inconsistent with that tenet or practice;
 - 45 -- information that indicates that the religious tenet or practice is
46 consistently held by the person, which may include, but need not be
47 limited to, expression of the person's intent to decline any
48 vaccination;

S801 WEINBERG, VITALE

6

1 -- a statement that the religious tenet or practice is not solely an
2 expression of that person's political, sociological, philosophical, or
3 moral views, or concerns related to the safety or efficacy of the
4 vaccination; and

5 -- a statement that the person understands the risks and benefits
6 of vaccination to the student and the public health and
7 acknowledges that the student may be excluded from attendance at
8 the student's school or institution of higher education, as applicable,
9 in the event of the occurrence of a communicable disease or
10 condition or threat of a communicable disease or condition, which
11 in the opinion of the Commissioner of Health requires such
12 exclusion from attendance of unvaccinated students; and

13 • a signed statement from a physician licensed to practice in this
14 State, or another individual as designated by the Commissioner
15 of Health, that the person has received individual counseling
16 from the physician, or other individual as appropriate,
17 concerning the risks and benefits of vaccination to the student
18 and the public health.

19 The bill prohibits an elementary or secondary school or
20 institution of higher education from exempting a student from a
21 mandatory immunization unless the student, or the student's parent
22 or guardian if the student is a minor, complies with all of the
23 applicable requirements set forth in the bill.

24 The bill provides the Commissioner of Health with expedited
25 rulemaking authority in order to provide such guidance to school
26 and public health authorities as they will need to implement its
27 provisions on a timely basis.