

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

A M E N D M E N T S

to

SENATE, No. 2173

(Sponsored by Senators WEINBERG and VITALE)

REPLACE TITLE TO READ:

AN ACT concerning exemptions from mandatory ¹immunizations for students ¹immunization requirements¹ and amending P.L.1974, c.150, P.L.2002, c.58, ¹and¹ P.L.2003, c.284 ¹and P.L.1983, c.492¹ .

REPLACE SECTION 1 TO READ:

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

6. a. Provisions in the State Sanitary Code in implementation of ¹this act¹ P.L.1947, c.177 (C.26:1A-1 et seq.), or provisions otherwise set forth in statute or regulation, which require the immunization of ¹children in a public or private licensed child care center, or¹ students in a ¹public or private¹ preschool program, ¹or at an¹ elementary or secondary school ¹,¹ or ¹an¹ institution of higher education, shall provide for an exemption ¹for pupils¹ from such mandatory immunization ¹if the parent or guardian of the pupil objects thereto in a written statement signed by the parent or guardian upon the ground that the proposed immunization interferes with the free exercise of the pupil's religious rights. This exemption¹ based upon ¹one of the following¹:

(1)¹ a ¹written¹ statement submitted ¹, using a standard form as shall be prescribed by the Commissioner of Health,¹ to the ¹public or private child care center,¹ preschool program, elementary or secondary school, or institution of higher education, as applicable, by a licensed physician, doctor of osteopathy, advanced practice nurse, or physician assistant indicating that the vaccine is medically contraindicated for a specific period of time and the reasons for the medical contraindication, based upon valid medical reasons as determined by regulation of the Commissioner of Health, which shall exempt the ¹child or¹ student ¹, as applicable,¹ from the vaccination for the stated period of time ¹; or

(2) documentation, as set forth in subsection b. of this section, which is submitted to the preschool program, elementary or secondary school, or institution of higher education, as applicable, by the student, or the student's parent or guardian if the student is a minor, explaining how the administration of the vaccine conflicts with the bona fide religious tenets or practices of the student, or the parent or guardian, as appropriate; except that: a general philosophical or moral objection to the vaccination shall not be sufficient for an exemption on religious grounds; and an exemption on religious grounds may be suspended by the [State] Commissioner of Health during the existence of an emergency as determined by the [State Commissioner of Health] commissioner¹.

b. ¹[The documentation required pursuant to paragraph (2) of subsection a. of this section shall include a written statement, which shall be notarized, signed, and sworn by the person submitting the statement, and which shall include:

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

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

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

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

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

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

c. ¹A ¹public or private child care center,¹ preschool program, elementary or secondary school, or institution of higher education shall not exempt a ¹child or¹ student ¹, as applicable,¹ from a mandatory immunization unless the ¹child or¹ student, or the ¹child's or¹ student's parent or guardian if the ¹child or¹ student is a minor, complies with all of the applicable requirements set forth in ¹[subsections] subsection¹ a. ¹[and b.]¹ of this section.

¹[d.] c.¹ The Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this section; except that, notwithstanding any provision of P.L.1968, c.410

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

INSERT NEW SECTION 4 TO READ:

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

5. a. The department shall have responsibility and authority to license and inspect child care centers. The commissioner shall promulgate rules and regulations for the operation and maintenance of child care centers which shall prescribe standards governing the safety and adequacy of the physical plant or facilities; the education, health, safety, general well-being and physical and intellectual development of the children; the quality and quantity of food served; the number of staff and the qualifications of each staff member; the implementation of a developmentally appropriate program; the maintenance and confidentiality of records and furnishing of required information; the transportation of children; and the administration of the center. The commissioner shall also promulgate rules and regulations for license application, issuance, renewal, expiration, denial, suspension and revocation. In developing, revising or amending such rules and regulations, the commissioner shall consult with the Child Care Advisory Council created pursuant to section 14 of P.L.1983, c.492 (C.30:5B-14), and with other appropriate administrative officers and agencies, including the Departments of Health and Senior Services, Education, Labor, Community Affairs and the Division of Motor Vehicles giving due weight to their recommendations. The rules and regulations promulgated pursuant to this act shall be adopted and amended in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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

c. Any rule or regulation involving physical examination ¹[, immunization]¹ or medical treatment ¹other than immunization¹ shall include an appropriate exemption for any child whose parent or parents object thereto on the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which the parent or child is an adherent or member.

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

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

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

g. Any rules and regulations adopted by the department pursuant to this act prescribing standards governing the safety and adequacy of the physical plant or facilities of child care centers shall not apply to a child care center operated by a nonprofit organization in a public school building used as a public school.¹

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

REPLACE SECTION 4 TO READ:

¹~~4.~~ 5.¹ This act shall take effect ¹~~immediately~~ one year after the date of enactment¹ .

REPLACE SYNOPSIS TO READ:

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

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