

[First Reprint]

**ASSEMBLY, No. 1576**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

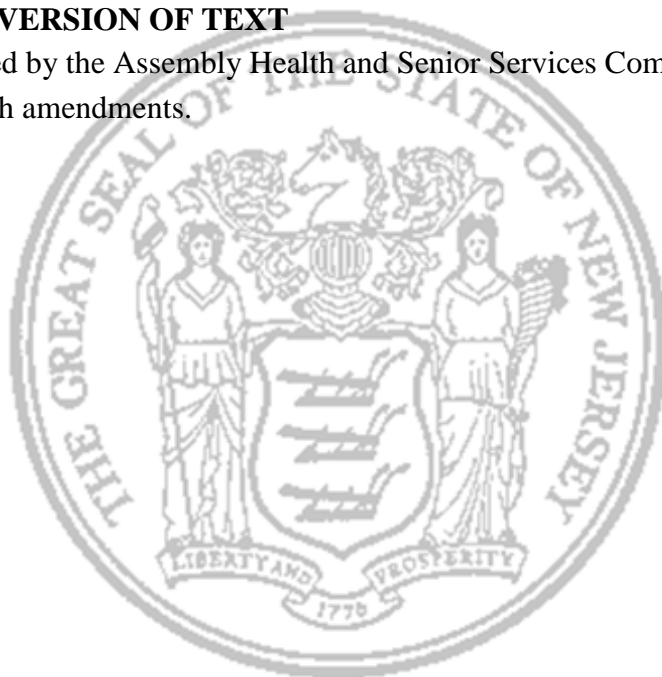
**Assemblyman Benson, Assemblywoman Handlin and Assemblyman  
Caputo**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As reported by the Assembly Health and Senior Services Committee on May 13, 2019, with amendments.



1 AN ACT concerning influenza vaccination of certain <sup>1</sup>**[health care**  
2 **workers]** employees<sup>1</sup> and supplementing Title 26 of the Revised  
3 Statutes.

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

7  
8 1. a. As used in this act:

9 “Commissioner” means the Commissioner of Health.

10 “Health care facility” means a general or special hospital,  
11 nursing home, or home health care agency licensed pursuant to  
12 P.L.1971, c.136 (C.26:2H-1 et seq.).

13 <sup>1</sup>**[“Health care worker”** means a person employed by a health  
14 care facility who provides direct patient care or otherwise has  
15 contact with patients.**]**<sup>1</sup>

16 b. Commencing with the <sup>1</sup>**[2013-2014]** 2018-2019<sup>1</sup> influenza  
17 season, each health care facility shall establish and implement an  
18 annual influenza vaccination program in accordance with the  
19 current recommendations of the Advisory Committee on  
20 Immunization Practices of the federal Centers for Disease Control  
21 and Prevention and any rules and regulations adopted by the  
22 commissioner pursuant to this act.

23 c. For the purposes of its annual influenza vaccination  
24 program, each health care facility shall:

25 (1) annually offer to provide an on-site or off-site influenza  
26 vaccination to each of its <sup>1</sup>**[health care workers]** employees<sup>1</sup>;

27 (2) require that each <sup>1</sup>**[health care worker]** employee<sup>1</sup> at the  
28 facility receive an influenza vaccination <sup>1</sup>annually between October  
29 1 and December 31 of the current influenza season,<sup>1</sup> provided by  
30 the health care facility, except that <sup>1</sup>**[a health care worker]** an  
31 employee<sup>1</sup> may, in lieu of receiving the influenza vaccination at the  
32 facility, present acceptable proof, including an attestation from the  
33 <sup>1</sup>**[health care worker]** employee<sup>1</sup>, of a current influenza vaccination  
34 if the <sup>1</sup>**[health care worker]** employee<sup>1</sup> receives the vaccination  
35 from another vaccination source, or sign a written declination  
36 statement;

37 (3) maintain a record or attestation, as applicable, of influenza  
38 vaccinations for each <sup>1</sup>**[health care worker]** employee<sup>1</sup>, retain each  
39 signed declination statement from <sup>1</sup>**[a health care worker]** an  
40 employee<sup>1</sup> who elects not to receive an influenza vaccination, and  
41 report to the Department of Health, in a manner and according to a  
42 schedule prescribed by the commissioner, the vaccination  
43 percentage rate of its <sup>1</sup>**[health care]**<sup>1</sup> workforce in receiving

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Assembly AHE committee amendments adopted May 13, 2019.

1 influenza vaccinations as part of the facility's annual vaccination  
2 program or by other means as attested to by the <sup>1</sup>["health care"]<sup>1</sup>  
3 workforce, as applicable. The report may also include other  
4 information that the facility deems relevant to its vaccination  
5 percentage rate, including, but not limited to, the number of  
6 <sup>1</sup>["health care workers"] employees<sup>1</sup> who signed declination  
7 statements that the facility has received;

8 (4) provide an educational component to its program that is  
9 designed to inform <sup>1</sup>["health care workers"] employees<sup>1</sup> about:  
10 influenza vaccination; non-vaccine influenza control measures; and  
11 the symptoms, transmission, and potential impact of influenza; and

12 (5) annually conduct an evaluation of the program with the goal  
13 of improving the rate of vaccination among its <sup>1</sup>["health care  
14 workers"] employees<sup>1</sup>.

15 d. A health care facility may suspend its annual offer of  
16 influenza vaccination pursuant to this act in the event of a shortage  
17 of influenza vaccine as determined by the commissioner.

18 e. (1) <sup>1</sup>["Any"] The commissioner may assess such penalties and  
19 take other actions against a health care facility, as provided in  
20 P.L.1971, c.136 (C.26:2H-1 et seq.), or any rules and regulations  
21 adopted pursuant thereto, for any<sup>1</sup> determination by the  
22 commissioner of noncompliance by a health care facility or any of  
23 its <sup>1</sup>["health care workers"] employees<sup>1</sup> with the provisions of this  
24 act<sup>1</sup>["], based upon an inspection or survey conducted by the  
25 Department of Health pursuant to section 5 of P.L.1971, c.136  
26 (C.26:2H-5), or as otherwise determined by the commissioner, shall  
27 not constitute a licensure violation or deficiency with respect to that  
28 facility for the purposes of P.L.1971, c.136 (C.26:2H-1 et seq.), or  
29 any rules and regulations adopted pursuant thereto<sup>1</sup>["].

30 (2) The commissioner shall seek to minimize any record-  
31 keeping burden imposed on a health care facility pursuant to this act  
32 and shall take such actions as are necessary to ensure the  
33 confidentiality of any data furnished to the department pursuant to  
34 this act that may contain information identifying an individual  
35 <sup>1</sup>["health care worker"] employee<sup>1</sup>.

36 (3) The commissioner shall make available to the public  
37 aggregate data reported by a facility pursuant to paragraph (3) of  
38 subsection c. of this section.

39 f. A health care facility shall not discharge or reduce the pay of  
40 a health care worker who declines to receive an influenza  
41 vaccination.

42 g. Nothing in this section shall be construed to prohibit a health  
43 care facility from taking measures to protect its patients in the event  
44 that <sup>1</sup>["a health care workers"] an employee<sup>1</sup> declines to receive an  
45 influenza vaccination, which measures may include, but are not  
46 limited to, relocation or change of assignment of <sup>1</sup>["a health care  
47 workers"] an employee<sup>1</sup>.

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- 1       2. No later than August 1st of each year, the commissioner  
2 shall report to the Governor, and to the Legislature pursuant to  
3 section 2 of P.L.1991, c.164 (C.52:14-19.1), on the vaccination  
4 percentage rates of health care workers for the prior influenza  
5 season.  
6
- 7       3. The Commissioner of Health, pursuant to the  
8 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
9 seq.), shall adopt rules and regulations as necessary to implement  
10 the provisions of this act.  
11
- 12       4. This act shall take effect immediately.