

3256

2009-2010 Regular Sessions

I N S E N A T E

March 13, 2009

Introduced by Sen. DUANE -- (at request of the Department of Health) --  
read twice and ordered printed, and when printed to be committed to  
the Committee on Health

AN ACT to amend the public health law, in relation to immunization of  
health care workers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The article heading of article 21-A of the public health  
2 law, as added by chapter 580 of the laws of 1999, is amended to read as  
3 follows:

4 LONG-TERM CARE RESIDENT AND  
5 [EMPLOYEE] PERSONNEL IMMUNIZATION ACT

6 S 2. Section 2190 of the public health law, as added by chapter 580 of  
7 the laws of 1999, is amended to read as follows:

8 S 2190. Short title. This article shall be known and may be cited as  
9 the "long-term care resident and [employee] PERSONNEL immunization act".

10 S 3. Section 2191 of the public health law, as added by chapter 580 of  
11 the laws of 1999, is amended to read as follows:

12 S 2191. Definitions. For the purposes of this article:

13 1. "Long-term care facility" or "facility" means a residential health  
14 care facility as defined in section twenty-eight hundred one of this  
15 chapter, adult home as defined in subdivision twenty-five of section two  
16 of the social services law or enriched housing program as defined in  
17 subdivision twenty-eight of section two of the social services law,  
18 adult day health care program in accordance with regulations of the  
19 department, and any other facility providing residential housing for  
20 five or more persons over the age of sixty-five unrelated to the opera-  
21 tor and supportive services including, but not limited to, food service,  
22 housekeeping, laundry, arranging for medical care, and assistance with  
23 daily living.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 2. ["Documentation" means written evidence from an individual's health  
2 care provider indicating the date and place when the individual received  
3 the influenza vaccine or the pneumococcal vaccine.

4 3.] "Medically contraindicated" means THAT THE ADMINISTRATION OF THE  
5 influenza or pneumococcal vaccine [should not be administered to an  
6 individual because it may be detrimental to the individual's health if  
7 the individual receives the vaccine] TO A PERSON IN ACCORDANCE WITH  
8 RECOMMENDATIONS OF THE ADVISORY COMMITTEE ON IMMUNIZATION PRACTICE OF  
9 THE FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION IN EFFECT AT THE  
10 TIME OF VACCINATION WOULD BE DETRIMENTAL TO THE PERSON'S HEALTH IN A  
11 MANNER RECOGNIZED IN THE RECOMMENDATIONS OF THE ADVISORY COMMITTEE ON  
12 IMMUNIZATION PRACTICE, BECAUSE OF THE MEDICAL CONDITION OF THAT PERSON.

13 [4. "Employee" means an individual employed (whether directly, by  
14 contract with another entity or as an independent contractor) by a long-  
15 term care facility, on a part-time or full-time basis.] 3. "PERSONNEL"  
16 MEANS ALL PERSONS EMPLOYED OR AFFILIATED WITH A FACILITY, WHETHER PAID  
17 OR UNPAID, INCLUDING BUT NOT LIMITED TO EMPLOYEES, MEMBERS OF THE  
18 MEDICAL STAFF, CONTRACT STAFF, STUDENTS, AND VOLUNTEERS, WHOSE ACTIV-  
19 ITIES ARE SUCH THAT THEIR HEALTH IMPAIRMENT WOULD POSE A POTENTIAL RISK  
20 TO PATIENTS.

21 S 4. Section 2192 of the public health law, as added by chapter 580 of  
22 the laws of 1999, is amended to read as follows:

23 S 2192. Long-term care resident and [employee] PERSONNEL immunization  
24 required. Except as provided in section twenty-one hundred ninety-five  
25 of this article, every long-term care facility in this state shall  
26 require residents [and employees] to be immunized for influenza virus  
27 and pneumococcal disease [in accordance with regulations of the commis-  
28 sioner] AND PERSONNEL TO BE IMMUNIZED FOR INFLUENZA VIRUS.

29 S 5. Subdivision 2 of section 2193 of the public health law, as added  
30 by chapter 580 of the laws of 1999, is amended to read as follows:

31 2. Every long-term care facility shall document the annual immuniza-  
32 tion against influenza virus and immunization against pneumococcal  
33 disease for each resident. THE FACILITY SHALL DOCUMENT THE DATE, SITE  
34 OF ADMINISTRATION, TYPE OF VACCINE, DOSE, MANUFACTURER AND LOT NUMBER OF  
35 THE VACCINE, REACTIONS IF ANY, VACCINE INFORMATION STATEMENT GIVEN, AND  
36 THE NAME OF THE PERSON ADMINISTERING THE VACCINE. IF ANY RESIDENT  
37 RECEIVES AN INFLUENZA VACCINATION FROM OTHER THAN FACILITY STAFF, THE  
38 FACILITY SHALL DOCUMENT THE DATE, TYPE OF VACCINE, DOSE AND NAME OF THE  
39 PERSON ADMINISTERING THE VACCINE. Upon finding that a resident is lack-  
40 ing such immunization or the long-term care facility or individual is  
41 unable to provide documentation that the individual has received the  
42 appropriate immunization, the long-term care facility shall provide or  
43 arrange for immunization. Immunization and the documentation thereof  
44 shall take place no later than November thirtieth of each year.

45 S 6. Section 2194 of the public health law, as added by chapter 580 of  
46 the laws of 1999, is amended to read as follows:

47 S 2194. [Employee] PERSONNEL immunization. 1. Every long-term care  
48 facility shall notify [every employee] ALL PERSONNEL of the immunization  
49 requirements of this article and [request that the employee agree to]  
50 REQUIRE THAT PERSONNEL be immunized against influenza virus [and pneumo-  
51 coccal disease].

52 2. The long-term care facility shall [require documentation of] DOCU-  
53 MENT THE annual immunization against influenza virus [and immunization  
54 against pneumococcal disease for each employee] OF ALL PERSONNEL IN  
55 THEIR PERSONNEL FILES, INCLUDING THE DATE, SITE OF ADMINISTRATION, TYPE  
56 OF VACCINE, DOSE, MANUFACTURER AND LOT NUMBER OF THE VACCINE, REACTIONS

1 IF ANY, VACCINE INFORMATION STATEMENT GIVEN, AND THE NAME OF THE PERSON  
2 ADMINISTERING THE VACCINE. IF ANY PERSONNEL RECEIVE AN INFLUENZA VACCI-  
3 NATION FROM OTHER THAN FACILITY STAFF, THE FACILITY SHALL DOCUMENT IN  
4 THE PERSONNEL FILE THE DATE, TYPE OF VACCINE, DOSE AND NAME OF THE  
5 PERSON ADMINISTERING THE VACCINE. Upon finding that [an employee] ANY  
6 PERSONNEL is lacking such immunization or the long-term care facility or  
7 individual is unable to provide documentation that the individual has  
8 received the appropriate immunization, the long-term care facility  
9 [must] SHALL provide or arrange for immunization, AT NO COST TO THE  
10 PERSONNEL. Immunization and the documentation thereof shall take place  
11 no later than November thirtieth of each year.

12 3. [An individual who is newly employed as an employee] PERSONNEL  
13 NEWLY ENTERING INTO SERVICE AT A FACILITY after November thirtieth but  
14 before April first shall have his or her status for influenza [and pneu-  
15 mococcal] immunization determined by the facility, and if found to be  
16 deficient, the facility shall provide or arrange for the necessary  
17 immunization, AT NO COST TO THE NEW PERSONNEL.

18 S 7. Section 2195 of the public health law, as added by chapter 580 of  
19 the laws of 1999, is amended to read as follows:

20 S 2195. Exceptions. 1. No individual shall be required to receive  
21 either an influenza vaccine or pneumococcal vaccine if the vaccine is  
22 medically contraindicated, or if it is against his or her religious  
23 beliefs[, or].

24 2. NO RESIDENT SHALL BE REQUIRED TO RECEIVE EITHER AN INFLUENZA  
25 VACCINE OR PNEUMOCOCCAL VACCINE if he or she refuses the vaccine after  
26 being fully informed of the health risks of such action.

27 3. NO RESIDENT SHALL BE REQUIRED TO RECEIVE A PNEUMOCOCCAL VACCINE IN  
28 A PARTICULAR YEAR IF THE COMMISSIONER DETERMINES THAT AN ADEQUATE SUPPLY  
29 OF SUCH VACCINE IS NOT AVAILABLE THAT YEAR.

30 4. NO RESIDENT OR PERSONNEL SHALL BE REQUIRED TO RECEIVE AN INFLUENZA  
31 VACCINE IF THE COMMISSIONER DETERMINES THAT AN ADEQUATE SUPPLY OF SUCH  
32 VACCINE IS NOT AVAILABLE THAT YEAR.

33 S 8. Subdivision 1 of section 2196 of the public health law, as added  
34 by chapter 580 of the laws of 1999, is amended to read as follows:

35 1. The commissioner [shall] MAY promulgate regulations relating to the  
36 immunization requirements of this article, taking into consideration the  
37 recommendations of the FEDERAL centers for disease control and  
38 prevention ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES.

39 S 9. Section 2196 of the public health law is amended by adding a new  
40 subdivision 4 to read as follows:

41 4. ANNUALLY EACH FACILITY SHALL COLLECT AGGREGATE DATA ON PERSONNEL  
42 INFLUENZA VACCINATION STATUS AND RESIDENT INFLUENZA AND PNEUMOCOCCAL  
43 DISEASE VACCINATION STATUS FOR THE PERIOD APRIL FIRST TO MARCH  
44 THIRTY-FIRST AND REPORT THAT DATA TO THE DEPARTMENT BY MAY FIRST OF EACH  
45 YEAR.

46 S 10. This act shall take effect September 1, 2010.