

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.