

CHAPTER 57
COMMUNICABLE DISEASES

Authority

N.J.S.A. 26:1A-7, 26:1A-15, 26:4-1 et seq.,
26:5C-5, 17:23A-13 and 18A:62-15.

Source and Effective Date

R.2000 d.378, effective September 18, 2000.
See: 32 N.J.R. 965(a), 32 N.J.R. 3463(a).

Executive Order No. 66(1978) Expiration Date

Chapter 57, Communicable Diseases, expires on September 18, 2005.

Chapter Historical Note

Chapter 57, Communicable Diseases, was adopted and became effective prior to September 1, 1969.

Subchapter 4, Immunization of Pupils in School, was adopted as R.1975 d.121, effective May 16, 1975. See: 7 N.J.R. 154(a), 7 N.J.R. 264(a).

Subchapter 5, Confinement of Persons With Tuberculosis, was adopted as R.1976 d.315, effective October 8, 1976. See: 8 N.J.R. 513(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Reportable Communicable Diseases, was readopted as R.1980 d.498, effective November 12, 1980. See: 12 N.J.R. 577(e), 13 N.J.R. 13(b).

Pursuant to Executive Order No. 66(1978), Subchapter 4, Immunization of Pupils in School, was readopted as R.1983 d.311, effective July 18, 1983. See: 15 N.J.R. 781(a), 15 N.J.R. 1253(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Reportable Communicable Diseases, was readopted as R.1985 d.363, effective June 18, 1985. See: 17 N.J.R. 784(a), 17 N.J.R. 1764(a).

Subchapter 6, Cancer Registry, was adopted as R.1986 d.277, effective June 16, 1986. See: 17 N.J.R. 2836(b), 18 N.J.R. 1283(a).

Subchapter 6, Cancer Registry, was recodified as N.J.A.C. 8:57A by R.1990 d.242, effective May 21, 1990. See: 21 N.J.R. 3909(a), 22 N.J.R. 1596(a).

Pursuant to Executive Order No. 66(1978), Chapter 57, Communicable Diseases, was readopted as R.1990 d.243, effective April 20, 1990, and Subchapter 2, Isolation of Persons Ill or Infected with a Communicable Disease, and Subchapter 3, Poliomyelitis Vaccine Records, were repealed by R.1990 d.243, effective June 4, 1990. See: 21 N.J.R. 3897(a), 22 N.J.R. 1766(a).

Subchapter 2, Reporting of Acquired Immunodeficiency Syndrome and Infection with Human Immunodeficiency Virus, was adopted as new rules by R.1990 d.244, effective May 21, 1990, operative June 4, 1990. See: 21 N.J.R. 3905(a), 22 N.J.R. 1592(a).

Subchapter 3, Reportable Occupational and Environmental Diseases and Poisons, was adopted as new rules by R.1990 d.245, effective May 21, 1990, operative June 4, 1990. See: 21 N.J.R. 3907(a), 22 N.J.R. 1595(a).

Pursuant to Executive Order No. 66(1978), Chapter 57, Communicable Diseases, was readopted as R.1995 d.240, effective April 12, 1995. See: 27 N.J.R. 420(a), 27 N.J.R. 1987(a).

Subchapter 1, Reportable Communicable Diseases, was repealed and Subchapter 1, Reportable Communicable Diseases, was adopted as new rules by R.1995 d.277, effective June 5, 1995. See: 27 N.J.R. 420(a), 27 N.J.R. 2216(a).

Subchapter 6, Higher Education Immunization, was adopted as emergency new rules by R.1995 d.518, effective August 21, 1995, to expire October 20, 1995. See: 27 N.J.R. 3631(a). The concurrent proposal of Subchapter 6 was adopted as R.1995 d.587, effective October 20, 1995, with changes effective November 20, 1995. See: 27 N.J.R. 3631(a), 27 N.J.R. 4701(a).

Subchapter 5, Confinement of Persons with Tuberculosis, was adopted as new rules by R.1996 d.130, effective March 18, 1996. See: 27 N.J.R. 3657(a), 28 N.J.R. 1507(a).

Subchapter 7, Student Health Insurance Coverage, was adopted as R.1997 d.347, effective August 18, 1997. See: 29 N.J.R. 2261(a), 29 N.J.R. 3727(a).

Subchapter 8, Childhood Immunization Insurance Coverage, was adopted as R.1998 d.434, effective August 17, 1998. See: 30 N.J.R. 44(a), 30 N.J.R. 3101(a).

Pursuant to Executive Order No. 66(1978), Chapter 57, Communicable Diseases, expired on April 12, 2000.

Chapter 57, Communicable Diseases, was adopted as new rules by R.2000 d.378, effective September 18, 2000. See: Source and Effective Date.

Cross References

Blind and visually impaired services case management of clients with communicable diseases, see N.J.A.C. 10:91-5.7.

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SUBCHAPTER 1. REPORTABLE COMMUNICABLE DISEASES

8:57-1.1 Purpose and scope

(a) The purpose of this subchapter is to expedite the reporting of certain diseases or outbreaks of disease so that appropriate action can be taken to protect the public health. The latest edition of the American Public Health Association's publication, "Control of Communicable Diseases Manual," should be used as a reference, providing guidelines for the characteristics and control of communicable diseases, unless other guidelines are issued by the Department.

(b) For purposes of research, surveillance, and/or in response to technological developments in disease detection or control, the Commissioner, or his or her designee, is empowered to amend the diseases specified in this subchapter for such periods of time as may be necessary to control disease, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

Amended by R.1990 d.243, effective June 4, 1990.

See: 21 N.J.R. 3897(a), 22 N.J.R. 1766(a).

Purpose and scope text separated from Foreword; balance of Foreword deleted.

8:57-1.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Bioterrorism" means premeditated use of biological agents (bacteria, viruses, etc.) to cause death or disease in humans, animals or crops.

"Child care center" means any home or facility required to be licensed by the Department of Human Services which is maintained for the care, development, or supervision of six or more children under six years of age who attend for less than 24 hours a day.

"Commissioner" means the New Jersey Commissioner of Health and Senior Services.

"Communicable disease" means an illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from an infected person, animal, or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector, or the inanimate environment.

(c) In those instances where a physician has made a diagnosis of active tuberculosis or a preliminary diagnosis of clinically suspected active tuberculosis, as defined at N.J.A.C. 8:57-5.2, and the Commissioner, or his or her designee, or the local health officer has reason to believe that the person poses a risk of flight, that person may be temporarily detained pending an expedited commitment hearing in the Superior Court. Risk of flight means that there is reason to believe that the person would not appear at a scheduled commitment hearing.

(d) In no event shall any person be committed for more than 90 days from the date of the original order without further court review being sought by the Commissioner, or his or her designee, or the local health officer. The Commissioner, or his or her designee, or the local health officer, shall seek further court review within 90 days of each subsequent court order.

8:57-5.9 Due process

(a) At any hearing conducted pursuant to this subchapter, a person shall have the following due process rights:

1. Written notice detailing the grounds and underlying facts of the matter;
2. The right to have counsel present at the hearing and, if indigent, the right to appointed counsel; and
3. The right to be present at a court hearing, to cross examine, and to present witnesses, which rights may be exercised through telecommunication technology.

8:57-5.10 Discharge plan

(a) When the medical director of the commitment facility, or his or her designee, has determined that a person no longer poses a reasonable risk of transmitting tuberculosis and that the person is able and willing to comply with his or her discharge plan, defined below, the medical director of the commitment facility or unit(s), or his or her designee, shall, within 24 hours, request the local health officer or the court who issued the commitment order to terminate the order. This request shall include a copy of the discharge plan. The determination that a person no longer poses a reasonable risk of transmitting tuberculosis shall be based on the following factors:

1. Three consecutive negative bacteriological smears taken at medically appropriate intervals; and
2. Significant reduction of symptoms.

(b) The discharge plan shall contain, at a minimum:

1. The name and confirmed address of the individual committed;
2. A detailed description of the prescribed case management plans;
3. A description of the person's living situation, including, but not limited to, source of support, persons

living in the same household, next of kin, and arrangements with community organizations;

4. The name and address of a health care provider(s) who will provide necessary care, including, but not limited to, assignment of a case manager, clinical case management, DOT and other services necessary to implement the prescribed treatment plan; and

5. The date and time of at least one scheduled appointment with the health care provider(s).

(c) The local health officer, in consultation with the Manager of the TB Program and/or the State Epidemiologist, shall review the discharge plan within three business days of receiving a copy of same, taking into consideration the language of the order of the commitment, the principle of least restrictive alternatives, and the medical and social resources available to the person. If the local health officer, Manager of the TB Program and/or State Epidemiologist disagrees with the terms of the discharge plan, he or she shall so notify the medical director of the commitment facility, in writing, including the reasons for disagreement with the discharge plan, no later than three business days after receipt.

(d) The local health officer shall keep the discharge plan on file for five years.

8:57-5.11 Commitment facilities

(a) The Commissioner, or his or her designee, shall designate sufficient facilities or commitment units of facilities.

(b) Individuals ordered committed by Superior Court must be confined to a facility or unit of a facility designated by the Commissioner or his or her designee.

8:57-5.12 Procedures for commitment by local health officers

(a) The local health officer may request assistance from the local police department(s), in accordance with N.J.S.A. 26:1A-9 (Health and Vital Statistics), if the local health officer determines that there is a reasonable likelihood that a person will attempt to avoid commitment or detention.

(b) If assistance is requested, the local health officer shall provide the police with the order under which commitment or detention, as the case may be, is authorized. The local health officer may seek assistance of the police before providing a copy of the order.

(c) If assistance is requested, the local health officer shall provide the police department with the name, address or last known location, and description of the physical characteristics of the person.

(d) The local health officer shall make all reasonable attempts to develop, in consultation with the local police department, a protocol for police assistance which includes

the types of assistance which may be requested of the local police department and guidance on appropriate situations for use of emergency medical service personnel.

8:57-5.13 Annual report

The Manager of the TB Program shall submit to the Commissioner an annual report describing trends in prevalence and incidence of TB and MDR-TB in New Jersey. The report shall also include descriptive statistics showing the frequency and trends of those reportable events set forth at N.J.A.C. 8:57-3. The first report shall be issued 12 months after the effective date of these rules and subsequent reports shall be due annually thereafter.

8:57-5.14 Confidentiality of records

(a) Patient medical information or information concerning reportable events pursuant to any section of this subchapter shall not be disclosed except under the following circumstances:

1. For research purposes, provided that the study is reviewed and approved by the applicable Institutional Review Board, and is done in a manner that does not identify any person, either by name or other identifying data element;
2. With written consent of the person identified;
3. When the Commissioner, or his or her designee, determines that such disclosure is necessary to enforce public health laws or to protect the life or health of a named party, in accordance with applicable State and Federal laws; or
4. Pursuant to a valid court order.

(b) Violation of (a) above may result in penalties as provided for at N.J.A.C. 8:57-5.16.

8:57-5.15 Mandatory exclusion from workplace or school

(a) Pursuant to N.J.S.A. 26:4-2, the local health officer may order that a person with known or clinically suspected active tuberculosis be excluded from attending his or her place of work or school, or be excluded from other premises where the local health officer determines, after a review of the facts and circumstances of the particular case, that such an action is necessary to protect the public health.

(b) If a person excluded from a work place or school, pursuant to N.J.S.A. 26:4-2, requests a review of the order, the local health officer shall make an application for a court order authorizing such exclusion within five business days after such request. After any such request, exclusion shall not continue more than 10 business days without a court order. In no case shall a person be excluded from a workplace, school, or other premises for more than 60 days without a court order authorizing such exclusion. The local health officer shall seek further court review of such exclusion within 90 days of the original court order or each subsequent court order.

(c) In any court proceeding under (b) above, the local health officer shall prove each required element for such exclusion by clear and convincing evidence.

(d) The elements for an order for exclusion issued by a local health officer under this section are:

1. Documentation of medical evidence indicating the presence of known or clinically suspected active tuberculosis and an assessment of the person's medical condition;
2. An individualized assessment of the person's circumstances and/or behavior constituting the basis for the issuance of the order; and
3. The less restrictive alternatives that were attempted and/or the less restrictive alternatives that were considered and rejected, and the reasons such alternatives were rejected.

(e) The local health officer shall rescind the order for exclusion upon documentation by a health care provider that the patient had three negative bacteriological smears at clinically appropriate intervals and a significant reduction of clinical symptoms. The local health officer may seek independent review by another health care provider if he or she has reason to doubt the primary health care provider's determination.

8:57-5.16 Penalties for violation of rules

Any person who fails to adhere to any provision of this subchapter shall be subject to a fine of \$50.00 each day for the first offense and \$100.00 each day for the second and any subsequent offenses. All violations by health care providers shall be reported to the appropriate professional licensing authorities and public financing programs.

SUBCHAPTER 6. HIGHER EDUCATION IMMUNIZATION

8:57-6.1 Applicability

(a) This subchapter shall apply to all new or continuing full- and part-time undergraduate and graduate students enrolled in a program of study leading to an academic degree at any public or independent institution of higher education in New Jersey.

(b) Two-year institutions shall apply these rules only to those students entering the college for the first time and registering for 12 or more credit hours of course study per semester/term.

(c) Four-year institutions shall apply the rules to all full- or part-time students enrolled in a program leading to an academic degree.

Petition for Rulemaking.

See: 31 N.J.R. 2275(a), 32 N.J.R. 1255(b).

8:57-6.2 Exemptions

(a) A student shall be exempt from immunization requirements for medical or religious reasons, provided that he or she meets the criteria as set forth at N.J.A.C. 8:57-6.9 and 8:57-6.10, respectively.

(b) In addition, an exemption may be made, at the discretion of the institution, for the following categories of students:

1. Students born before 1957;

2. Students enrolled in a program for which students do not congregate, on campus, whether for classes or to participate in institution-sponsored events, such as those enrolled in programs for individualized home study or conducted entirely via electronic media.

(c) Nothing in this subchapter shall be construed as limiting the authority of a New Jersey institution of higher education to establish additional requirements for student immunizations and documentation that such institution shall determine appropriate and which is recommended by the Advisory Committee on Immunization Practices (ACIP) of the United States Public Health Service.

8:57-6.3 Required immunization; measles

(a) Each student entering college for the first time after September 1, 1995 shall have received two doses of a live measles-containing vaccine, or any vaccine combination containing live measles vaccine, that was administered after 1968. The first dose shall have been administered on or after the student's first birthday and the second dose shall have been administered no less than one month after the first dose.

(b) A student vaccinated with a killed measles-containing vaccine, or an unknown vaccine prior to 1968, shall be revaccinated or produce laboratory proof of measles immunity.

(c) A student who presents documented laboratory evidence of measles immunity shall not be required to receive measles vaccine.

8:57-6.4 Required immunization; mumps

(a) Each student entering college for the first time after September 1, 1995 shall have received one dose of live mumps virus vaccine, or any vaccine combination containing live mumps virus vaccine. The vaccine shall have been administered on or after the student's first birthday.

(b) A student who presents documented laboratory evidence of mumps immunity shall not be required to receive mumps vaccine.

8:57-6.5 Required immunization; rubella

(a) Each student entering college for the first time after September 1, 1995 shall have received one dose of live rubella virus vaccine, or any vaccine combination containing live rubella virus vaccine. The vaccine shall have been administered on or after the student's first birthday.

(b) A student who presents documented laboratory evidence of rubella immunity shall not be required to receive rubella vaccine.

8:57-6.6 Institutional responsibility for enforcement

(a) All New Jersey institutions of higher education shall require evidence of immunization as a prerequisite to enrollment of all students except those who meet the exemption requirements set forth at N.J.A.C. 8:57-6.2(b), N.J.A.C. 8:57-6.9 and N.J.A.C. 8:57-6.10, or those students enrolled in two-year institutions who are registered for fewer than 12 credit hours per semester/term.

(b) All New Jersey institutions of higher education shall identify to the Department of Health and Senior Services an institutional official responsible for the administration and enforcement of this subchapter and for the maintenance of immunization records.

(c) All New Jersey institutions of higher education shall enforce student compliance with this subchapter within 60 days of enrollment.

Petition for Rulemaking.

See: 31 N.J.R. 2275(a), 32 N.J.R. 1255(b).

8:57-6.7 Provisional admission

(a) A student may be registered in an institution of higher education on a provisional basis for his or her first term if the required immunization documentation is not available at the time of registration.

(b) Prior to registration for the second term, a student shall either present documentation of immunization or proof of immunity in accordance with the requirements of this subchapter or be reimmunized.

(c) A student in provisional status may be temporarily excluded from classes and from participation in institution-sponsored activities during a vaccine-preventable disease outbreak or threatened outbreak. This decision shall be made by the institution in consultation with the Commissioner, Department of Health and Senior Services or his or her designee. This exclusion shall continue until the outbreak is over or until proof of the student's immunization or immunity is furnished.

8:57-6.8 Documents accepted as evidence of immunization

(a) The following documents shall be accepted as evidence of a student's immunization history provided that the

type of immunization and the date when each immunization was administered is listed:

1. An official school immunization record or copy thereof from any primary or secondary school indicating compliance with the immunization requirements set forth at N.J.A.C. 8:57-6.3, 6.4, and 6.5; or
2. A record from any public health department indicating compliance with the immunization requirements set forth at N.J.A.C. 8:57-6.3, 6.4, and 6.5; or
3. A record or an official college affidavit form signed by a physician licensed to practice medicine or osteopathy in any jurisdiction of the United States or in any foreign country, or any other licensed health professional approved by the Department of Health and Senior Services, which indicated compliance with the immunization requirements set forth at N.J.A.C. 8:57-6.3, 6.4, and 6.5.

8:57-6.9 Medical exemptions

(a) A student shall not be required to have any specific immunizations(s) which are medically contraindicated.

(b) A written statement submitted to the institution from a physician licensed to practice medicine or osteopathy in any jurisdiction of the United States, or in any foreign country, indicating that an immunization is medically contraindicated for a specific period of time, and setting forth the reason(s) for the medical contraindication, based upon valid medical reasons as enumerated by the most recent recommendations of the Advisory Committee on Immunization Practices (ACIP) of the United States Public Health Service, shall exempt a student from the specific immunization requirements for the stated period of time.

1. The guidelines identified in (b) above are available from the Advisory Committee on Immunization Practices, U.S. Public Health Service, Centers for Disease Control and Prevention, Atlanta, GA 30333.

(c) The physician's statement shall be retained as part of the student's immunization record and shall be reviewed annually by the institution to determine whether the exemption shall remain in effect for the next year. When the student's medical condition permits immunization, this exemption shall thereupon terminate and the student shall be required to obtain the immunization(s) from which he or she has been exempted.

(d) A student with medical exemptions to receiving specific immunizations may be temporarily excluded from classes and from participating in institution-sponsored activities during a vaccine-preventable disease outbreak or threatened outbreak. This decision shall be made by the institution in consultation with the Commissioner, Department of Health and Senior Services or his or her designee. This exclusion shall continue until the outbreak is over or until proof of the student's immunization or immunity is furnished.

8:57-6.10 Religious exemptions

(a) A student shall be exempted from mandatory immunization if the student objects thereto in a written statement submitted to the institution, signed by the student, explaining how the administration of immunizing agents conflicts with the student's religious beliefs.

(b) This statement shall be kept by the institution as part of the student's immunization record.

(c) A student with a religious exemption from receiving immunizing agents may be temporarily excluded from classes and from participating in institution-sponsored activities during a vaccine-preventable disease outbreak or threatened outbreak. This decision shall be made by the institution in consultation with the Commissioner, Department of Health and Senior Services or his or her designee. This exclusion shall continue until the outbreak is over.

8:57-6.11 Institutional records required

(a) All New Jersey institutions of higher education shall maintain records of immunizations on each student in a format either specified or approved by the Department. Each record shall indicate the date of each required immunization, laboratory evidence of immunity, or, where applicable, the requisite documents, as required pursuant to N.J.A.C. 8:57-6.9 or 8:57-6.10 pertaining to any medical or religious exemptions.

(b) All New Jersey institutions of higher education shall maintain immunization record forms in a manner which allows accessibility to health officials, yet insures the confidentiality of the student's other records. Student immunization histories may be entered into an institution's secure electronic database.

(c) All New Jersey institutions of higher education shall, upon request of a student who is transferring to another institution, send the student's original record of immunization, or an authenticated copy thereof, or electronically print out an authenticated copy of the student's immunization history in the same manner as a college transcript, with any attached statements, to the other institution.

(d) All New Jersey institutions of higher education shall, upon request, release to a student his or her immunization records or an authentic electronic printout of that record. Request for such records shall be honored for three years following a student's graduation, termination, transfer, or departure from the institution.

8:57-6.12 Reports to be submitted to the Department of Health and Senior Services

(a) A report of the immunization status of students in every institution shall be sent each year to the Department of Health and Senior Services. This report shall be submitted by the official designated pursuant to N.J.A.C. 8:57-6.6(b) to be responsible for the administration and enforcement of this subchapter and for the maintenance of immunization records.

(b) The form for the annual immunization status report shall be provided by the Department of Health and Senior Services.

(c) The report shall document the total number of students who are specifically covered by this subchapter, the number of students who are vaccinated, the number of students with medical exemptions, the number of students with religious exemptions, and the number of students not receiving required immunizations.

(d) The report shall be submitted by December 1 of the academic year beginning in September of the same year after the review of all appropriate immunization records.

8:57-6.13 Records available for inspection

All institutions shall maintain centralized records of their students' immunization status. Upon 24 hours notice, those records shall be made available for inspection by authorized representatives of the Department of Health and Senior Services or the local board of health in whose jurisdiction the institution of higher education is located.

8:57-6.14 Providing immunization

Each institution may administer the vaccines required by this subchapter to those students who are unable to either obtain acceptable vaccine documentation or obtain the measles, mumps, or rubella vaccines from their own health care providers.

8:57-6.15 Reporting requirements

Each New Jersey institution of higher education shall report the suspected presence of any reportable communicable disease, as identified at N.J.A.C. 8:57-1.3 and N.J.A.C. 8:57-1.4, to the local health officer having jurisdiction over the locality in which such institution is located.

8:57-6.16 Modifications in the event of an outbreak

In the event of an outbreak or threatened outbreak, the Commissioner, Department of Health and Senior Services, his or her designee, or local health officers may modify the immunization requirements as set forth in this subchapter to meet the emergency. These modifications may include obtaining immunization documentation or requiring specific immunizations for each student not covered by this subchapter. Each student failing to meet these additional requirements may be temporarily excluded from classes and from participating in institution-sponsored activities. This exclusion shall continue until the outbreak is over or until proof of the student's immunization or immunity is furnished.

SUBCHAPTER 7. STUDENT HEALTH INSURANCE COVERAGE

8:57-7.1 Purpose and scope

(a) This subchapter is promulgated pursuant to the provisions of N.J.S.A. 18A:62-15, and shall assure that each full-

time student attending a public or private institution of higher education in New Jersey obtains and maintains health insurance coverage.

(b) This subchapter shall neither limit the scope of, nor specify the types of, insurance contract benefits necessary to comply with N.J.S.A. 18A:62-15, except those which are specified at N.J.A.C. 8:57-7.2.

8:57-7.2 Coverage

(a) Every person enrolled as a full-time student at a public or private institution of higher education in this State shall maintain health insurance coverage which provides, at a minimum, basic hospital benefits.

(b) The insurance coverage specified at (a) above shall be maintained throughout the period of the student's enrollment as a full-time student.

8:57-7.3 Documentation of coverage

(a) Every student enrolled as a full-time student shall present evidence of the health insurance coverage required at N.J.A.C. 8:57-7.2 to the institution of higher education on an annual basis.

(b) The form of documentation required shall be in a manner prescribed by the institution of higher education.

8:57-7.4 Availability of coverage

(a) All public and private institutions of higher education in this State shall arrange for health insurance coverage on a group or individual basis for purchase by students who are required to maintain coverage pursuant to N.J.A.C. 8:57-7.2.

(b) All public and private institutions of higher education in this State required to arrange for coverage pursuant to this subchapter shall be required to maintain evidence of compliance with (a) above.

8:57-7.5 Inspection of records

(a) Records or other such evidence of compliance required by this subchapter shall be made available for inspection by representatives of the New Jersey Department of Health and Senior Services upon request.

SUBCHAPTER 8. CHILDHOOD IMMUNIZATION INSURANCE COVERAGE

8:57-8.1 Purpose and scope

(a) The purpose of this subchapter is to set forth the standards by which carriers shall provide benefits or services for immunizations, to increase access to childhood vaccines

and to improve New Jersey's immunization coverage rate among preschool and school-age children.

(b) This subchapter shall apply to every carrier delivering, issuing for delivery or renewing health benefits plans in this State which health benefits plans are not otherwise subject to N.J.S.A. 17B:27A-2 et seq. (the Individual Health Coverage Program) or N.J.S.A. 17B:27A-17 et seq. (the Small Employer Health Benefits Program).

8:57-8.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Advisory Committee on Immunization Practices" or "ACIP" means an advisory committee to the Centers for Disease Control and Prevention (CDC) that is made up of technical experts needed to advise the CDC on determining national immunization schedules and recommendations.

"Carrier" means a hospital service corporation (N.J.S.A. 17:48-1 et seq.), a health service corporation (N.J.S.A. 17:48E-1 et seq.), an insurer authorized to transact a health insurance business pursuant to Title 17B of the New Jersey Statutes, and a health insurance maintenance organization (N.J.S.A. 26:2J-1 et seq.).

"Centers for Disease Control and Prevention" or "CDC" means the Federal agency which is the lead agency in the nation for disease prevention and control, located in Atlanta, Georgia.

"Commissioner" means the Commissioner of the New Jersey Department of Health and Senior Services.

"Deductible" means the amount of covered charges that are paid by the insured before his or her policy pays any benefits for such charges.

"DTP" means a combined vaccine which includes toxoids and antigens to prevent diphtheria, tetanus and pertussis diseases.

"DTaP" means a combined vaccine which includes toxoids and antigens to prevent diphtheria, tetanus and a more purified antigenic component of the *Bordetella pertussis* (acellular pertussis) to prevent pertussis disease, and which may also reduce the likelihood of an adverse vaccine reaction.

"Health benefits plan" means any policy or contract delivered, issued for delivery or renewed in this State by a carrier that covers hospital or medical services or provides benefits for hospital or medical expenses.

"Hepatitis B immune globulin" or "HBIG" means hepatitis B immune globulin which is a short acting biological substance given only to individuals known to have been recently exposed to hepatitis B disease.

"Hepatitis B surface antigen" or "HBsAG" means a protein or carbohydrate substance which is present on the surface of the hepatitis B virus, and which stimulates the production of antibodies when introduced into the body.

"Hepatitis B virus vaccine" or "HBV" means a vaccine containing antigens to prevent hepatitis B virus disease.

"Immunization" means the immunizing agent itself, as well as the process and procedures associated with immunizing persons to prevent disease.

"Immunobiologics" means antigenic substances, such as vaccines or toxoids, or antibody-containing preparations, such as globulins and antitoxins, from human or animal donors. These products are used for active or passive immunization. The following are examples of immunobiologics: vaccine, toxoid, immune globulin (IG), intravenous immune globulin (IGIV), specific immune globulin, and antitoxin.

"Influenza vaccine" means vaccines that are produced annually to prevent disease from the most prevalent strains of influenza virus circulating in the world or country.

"Medical contraindication" means a condition in a recipient which is likely to result in a life-threatening problem if the vaccine were given.

"*Morbidity and Mortality Weekly Report*" or "*MMWR*" means a weekly publication issued by the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Atlanta, Georgia 30333.

"Outbreak" means more than the normally expected number of cases of a disease occurring in a circumscribed location over a specified time period, normally days or weeks.

"Pneumococcal vaccine" means a vaccine which contains antigens to prevent the occurrence of pneumonia in certain high risk populations.

"Post-exposure prophylactic doses" means prescribed amounts of vaccines and/or other medications which are administered to an individual who was, or who has a strong likelihood of having been exposed to a preventable disease.

"Td" means a combination vaccine which includes toxoids to prevent diphtheria and tetanus diseases only. It is normally recommended for older children and adults.

“Vaccines” means those immunizing agents composed of antigenic substances such as a vaccine or toxoid, or an antibody-containing preparation such as globulin when used to actively or passively immunize a person to prevent disease.

8:57-8.3 Immunizations that must be covered

(a) A carrier shall provide benefits or services covering the expenses of immunizations for children as set forth in (b) below, including the costs of immunobiologics and administration of the immunizations, except that nothing in this subsection shall be construed to require a carrier to exceed its negotiated fee or the usual and customary fee for services rendered in the administration of an immunization.

(b) A carrier shall provide services or benefits for:

1. Immunizations which are specified in the “Recommended Childhood Immunization Schedule” published by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention in the *Morbidity and Mortality Weekly Report*, as amended from time to time, which can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, telephone (202) 512-1800; and

2. All routine childhood vaccines as specified in the “Recommended Childhood Immunization Schedule”:

- i. In single or combined form;
- ii. Pediatric diphtheria tetanus toxoid (DT) when a medical contraindication to DTP or DTaP exists;
- iii. Single antigen measles or rubella vaccine, or measles and rubella (MR) vaccine when medically indicated or recommended;
- iv. Hepatitis B immune globulin (HBIG) given concurrently with hepatitis B vaccine when medically indicated for newborns of mothers with HBsAG positive status, or unknown HBsAG status, or other close family contacts as determined by known risk factors; and
- v. Influenza, hepatitis A, pneumococcal, or other vaccines as recommended by the CDC for high risk children.

3. Such immunizations as are recommended or mandated, as the case may be, including post-exposure pro-

phylactic doses, in the event that the Commissioner, or his or her designee, declares that an outbreak of a communicable disease exists or is threatened for which an immunization or program of immunizations is available.

(c) Carriers shall provide benefits or services for immunizations to be the same extent as for other medical conditions under the health benefits plan, except that no carrier shall require satisfaction of any deductible, in whole or in part, prior to the provision of benefits or services for immunizations to covered children. A carrier may require payment of a co-payment to the extent that the co-payment shall not exceed the co-payment for other similar services, except that no co-payment shall apply to a Medicaid enrolled child participating in either Plan A, Plan B, Plan C, or Plan D of the New Jersey Medicaid or New Jersey KidCare Programs.

(d) Carriers shall not deny benefits or services for immunizations provided to a covered child at an age that is later than that set forth in the “Recommended Childhood Immunization Schedule” if the immunization is otherwise necessary to complete the schedule of immunizations for that child as specified in the “Recommended Childhood Immunization Schedule.”

(e) Carriers shall provide benefits or services for doses which have to be repeated because previous doses received by a covered child are considered invalid by the DHSS due to administration before the medically recommended time, or due to administration prior to the recommended time interval between immunizations.

8:57-8.4 Penalties

(a) Carriers authorized to transact an insurance business in this State pursuant to Title 17 or Title 17B of the New Jersey Statutes that fail to comply with this subchapter shall be subject to penalties or fines available under those statutes, as specified by the Commissioner of Banking and Insurance.

(b) Carriers authorized to transact business in this State pursuant to N.J.S.A. 26:2J-1 et seq. that fail to comply with this subchapter shall be subject to penalties or fines available under N.J.S.A. 26:2J-1 et seq., or as are otherwise available under the laws of this State.