

LD 2169

ERRORS BILL § Supp 3

LAW AMENDED: 22 MRSA §802, sub-§4-B, ¶B-1
PL 2019, c. 154, §12

General Subject: Health care facility employee exemptions to immunizations

Type of correction (conflict, reference, other): incorrect cross-reference

Category (technical, substantive): Substantive

Prepared by: mjr
Date: 7.30.20
File name: file

EXPLANATION

PL 2019, c. 154 (LD 798), An Act to Protect Maine Children and Students from Preventable Diseases by Repealing Certain Exemptions from the Laws Governing Immunization Requirements amended the immunization exemptions applicable to health care facility employees in two ways.

1. It amended 22 MRSA §802, sub-§4-B, ¶A to allow an employee of a health care facility to provide a written statement of the exemption from a broader group of health care professionals. (See Sec. 8 of c. 154.)

2. It repealed 22 MRSA §802, sub-§4-B, ¶B, which provided a religious or philosophical exemption for the employee to exercise by providing the employer with a written statement. (See Sec. 9 of c. 154)

The amendment to ¶A was intended to take effect when the bill went into effect (which is April 20, 2020, 30 days after the Governor's proclamation that the People's Veto of c. 154 was not successful).

The repeal of ¶B was intended to go into effect on September 1, 2021.

Unfortunately, the effective date section (Sec. 12 of c. 154) was incorrect. As enacted, Sec. 12 delayed the effective date of ¶B (more health care professionals signing the exemption statement for health care facility employee) to September 1, 2021. And because Sec. 12 did not delay the effective date of the repeal of ¶B, the repeal was effective April 20, 2020.

LD 2046, An Act Regarding Immunizations, in Part B would fix the too-early repeal of ¶B by enacted a new ¶B-1, as proposed in Supplement 3. (Part A of LD 2046 is unrelated to

the Errors Bill correction.) Note that LD 2046 was printed before the People's Veto vote was taken and the outcome known, therefore the contingent date section. This is all very confusing and I would suggest you avoid reading it. LD 2046 was referred to the Education Committee and has not been voted.

Supplement 3 does two things. First, it enacts a new 22 MRSA §802, sub-§4-B, ¶B-1 that contains the same language as the former ¶B providing for religious and philosophical exemptions for employees of health care facilities, except that it contains a sunset of September 1, 2021. This was the intended repeal date of the exemption. Because ¶B was repealed on April 20, 2020, the only way to reinstate the exemption is to enact it as ¶B-1.

The other thing Supplement 3 does is that it amends the effective date, retroactively to April 20, 2020, to remove the cross-reference to the amendment 22 MRSA §802, sub-4-B, ¶A as it relates to the delayed effective date. The result of deleting this cross-reference is to make the amendment to ¶A (more health care professionals can sign) take effect when chapter 154 takes effect. The retroactivity language makes that take effect on April 20, 2020, so there is no gap in when it was intended to take effect and when the Errors Bill, an emergency, takes effect.

This is a substantive change. See the letter from the Chairs of the Education and Cultural Affairs Committee supporting the corrections.

Supplement 3

Sec. Supp-3-1. 22 MRSA §802, sub-§4-B, ¶B-1 is enacted to read:

B-1. A religious or philosophical exemption is available to an employee who states in writing a sincere religious or philosophical belief that is contrary to the immunization requirement of this subchapter.

This paragraph is repealed September 1, 2021.

Sec. Supp-3-2. PL 2019, chapter 154, section 12 is amended to read:

Sec. 12. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 22, section 802, subsection 4-B, paragraph A and Title 22, section 8402, subsection 3, paragraph A and that repeal Title 20-A, section 6355, subsection 3 and Title 20-A, section 6359, subsection 3, paragraph B take effect September 1, 2021.

Sec. Supp-3-3. Retroactivity. That section of this Act that amends PL 2019, chapter 154, section 12 applies retroactively to April 20, 2020.

G:\COMMITTEES\JUD\Errors Bill 2020\Supp 3 text.docx (7/30/2020 02:42:00 PM)

B. "Disease" means one of those conditions enumerated in rules adopted by the department that may be preventable by an immunizing agent.

C. "Employee" means any person who performs a service for wages or other remuneration for a designated health care facility.

D. "Immunizing agent" means a vaccine, antitoxin or other substance used to increase an individual's immunity to a disease.

4-B. Exemptions to immunization. Employees are exempt from immunization otherwise required by this subchapter or by rules adopted by the department pursuant to this section under the following circumstances.

Text of subsec. 4-B, par. A effective until Sept. 1, 2021.

A. A medical exemption is available to an employee who provides a physician's written statement that immunization against one or more diseases may be medically inadvisable.

Text of subsec. 4-B, par. A effective Sept. 1, 2021.

A. A medical exemption is available to an employee who provides a written statement from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more diseases may be medically inadvisable.

B. Repealed. Laws 2019, c. 154, § 9, eff. Sept. 19, 2019.

C. An exemption is available to an individual who declines hepatitis B vaccine, as provided for by the relevant law and regulations of the federal Department of Labor, Occupational Health and Safety Administration.

5. Immunization requirements for nursing facility staff. A nursing facility or licensed assisted living facility shall adopt a facility policy that recommends and offers annual immunizations against influenza to all personnel who provide direct care to residents of the facility.

6. Acceptance of funds. The department is authorized to accept any public or private funds that may be available to create a supply or stockpile of antiviral medications, influenza vaccines or other items necessary in the event of a severe outbreak of influenza or an outbreak of another infectious disease.

1989, c. 487, § 11; 1999, c. 378, §§ 1, 2; 2001, c. 185, §§ 1, 2; 2001, c. 694, § B-3; 2003, c. 366, § 1; 2005, c. 383, §§ 6 to 8; 2007, c. 240, § UU-1, eff. June 7, 2007; 2011, c. 542, § A-25, eff. March 20, 2012; 2019, c. 154, § 8, eff. Sept. 1, 2021; 2019, c. 154, § 9, eff. Sept. 19, 2019.

Historical and Statutory Notes

2019 Legislation

Laws 2019, c. 154, § 8, rewrote subsec. 4-B, par. A, which formerly read:

"A. A medical exemption is available to an employee who provides a physician's written statement that immunization against one or more diseases may be medically inadvisable."

Laws 2019, c. 154, § 9, repealed subsec. 4-B, par. B, which formerly read:

"B. A religious or philosophical exemption is available to an employee who states in writing a sincere religious or philosophical belief that is contrary to the immunization requirement of this subchapter."

SUBCHAPTER 2

CONTROL MEASURES

§ 815. Privileged or confidential communications

Research References

Encyclopedias

87 Am. Jur. Proof of Facts 3d 259, Confidentiality of Medical and Other Treatment Records.

SUBCHAPTER 3

REPORTING REQUIREMENTS

§ 822. Reporting

Research References

Encyclopedias

87 Am. Jur. Proof of Facts 3d 259, Confidentiality of Medical and Other Treatment Records.

SUBCHAPTER 4

MANDATORY BLOOD-BORNE PATHOGEN TEST

§ 831. Definitions

Research References

Treatises and Practice Aids

1 Termination of Employment § 22:11, Disability.

§ 832. Judicial consent to blood-borne pathogen test

Research References

Treatises and Practice Aids

5 Employment Coordinator Employment Practices § 29:16, Maine; Use of AIDS Tests and Disclosure of Test Results.

4 Employment Discrimination Coordinator Analysis of State Law § 23:64, Employee Privacy.
1 Termination of Employment § 22:11, Disability.

§ 833. Confidentiality

Research References

Treatises and Practice Aids

4 Employment Discrimination Coordinator Analysis of State Law § 23:64, Employee Privacy.

CHAPTER 252

LEAD POISONING CONTROL ACT

Section

1314-A. Goal.
1315. Definitions.
1317-D. Lead poisoning risk assessment and blood lead level testing program.

Section

1321. Notice and removal.
1322-F. Lead poisoning prevention fee.
1330. Report.

§ 1314. Short title

Research References

Treatises and Practice Aids

1 Maine Practice Series § 9:23, Lead Poisoning Control.

1 Maine Practice Series § 21:10, Environmental Considerations.

Current law

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 586 - L.D. 798

**An Act To Protect Maine Children and Students from Preventable Diseases
by Repealing Certain Exemptions from the Laws Governing Immunization
Requirements**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6355, sub-§2, as amended by PL 2001, c. 326, §2, is further amended to read:

2. Medical exemption. The parent or the child provides a ~~physician's~~ written statement from a licensed physician, nurse practitioner or physician assistant that, in the licensed physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable.

Sec. 2. 20-A MRSA §6355, sub-§3, as amended by PL 2001, c. 326, §2, is repealed.

Sec. 3. 20-A MRSA §6355, sub-§4 is enacted to read:

4. Student covered by individualized education plan. A student covered by an individualized education plan on September 1, 2021 who elected a philosophical or religious exemption from immunization requirements on or before September 1, 2021 pursuant to the law in effect prior to that date may continue to attend school under that student's existing exemption as long as:

A. The parent or guardian of the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that parent or guardian and has made that parent or guardian aware of the risks and benefits associated with the choice to immunize; or

B. If the student is 18 years of age or older, the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that student and has made that student aware of the risks and benefits associated with the choice to immunize.

Sec. 4. 20-A MRSA §6358, as amended by PL 2001, c. 326, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

§6358. Rules; requirements; reports

1. Rules authorized. The commissioner and the Director of the ~~Bureau of Health,~~ Maine Center for Disease Control and Prevention within the Department of Health and Human Services, shall jointly issue rules necessary for the effective implementation of this subchapter, including, but not limited to, rules specifying those diseases for which immunization is required and establishing school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized children from school. The rules may not include any provision governing medical exemptions. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

2. Local requirements authorized. Immunization requirements more stringent than the provisions of this subchapter may be adopted by ordinance enacted by a municipality, by regulation of a school board or by policy of a private school's governing board.

3. Report. By January 1st of each odd-numbered year, the Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services shall submit a report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and education matters concerning any new developments in the evaluation of vaccine safety and effectiveness. The joint standing committees of the Legislature having jurisdiction over health and human services matters and education matters are each authorized to submit a bill during the legislative session in which the report was submitted.

Sec. 5. 20-A MRSA §6359, sub-§3, ¶A, as amended by PL 1991, c. 146, §3, is further amended to read:

A. The parent or the student provides ~~a physician's written statement or a written statement from a school health provider~~ from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable.

Sec. 6. 20-A MRSA §6359, sub-§3, ¶B, as amended by PL 2001, c. 326, §6, is repealed.

Sec. 7. 20-A MRSA §6359, sub-§6, as amended by PL 1991, c. 146, §4, is further amended to read:

6. Rules; requirements; reports. The Director of the ~~Bureau of Health~~ Maine Center for Disease Control and Prevention within the Department of Health and Human Services shall adopt rules necessary for the effective implementation of this subchapter, including, but not limited to, rules establishing immunization requirements ~~and medical~~

~~exceptions to receiving vaccines or toxoids for each disease, school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized students from school. The rules may not include any provision governing medical exemptions. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Immunization requirements more stringent than the provisions of this subchapter may be adopted by a school board or by policy of a private school's governing board.

① **Sec. 8. 22 MRSA §802, sub-§4-B, ¶A**, as enacted by PL 2001, c. 185, §2, is amended to read:

A. A medical exemption is available to an employee who provides a ~~physician's~~ written statement from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more diseases may be medically inadvisable.

Sec. 9. 22 MRSA §802, sub-§4-B, ¶B, as enacted by PL 2001, c. 185, §2, is repealed. ②

Sec. 10. 22 MRSA §8402, sub-§3, ¶A, as amended by PL 2001, c. 645, §10, is further amended to read:

A. The department shall adopt rules regarding the health of staff as required to protect the health and safety of the children. The rules must include a requirement that every 2 years each licensee, administrator or other staff member of the nursery school who provides care for children be declared free from communicable disease by a licensed physician, ~~except that this requirement may be waived for a person who objects on the grounds of sincerely held religious or philosophical belief, nurse practitioner or physician assistant.~~ Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 11. Rules. The Department of Education and the Department of Health and Human Services shall amend their rules to remove any rules exempting persons from immunization requirements because of their religious or philosophical beliefs.

Rules adopted pursuant to this section are routine technical rules pursuant to the Maine Revised Statutes, Title 20-A, section 6358, subsection 1 and section 6359, subsection 6.

① **Sec. 12. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 22, section 802, subsection 4-B, paragraph A) and Title 22, section 8402, subsection 3, paragraph A and that repeal Title 20-A, section 6355, subsection 3 and Title 20-A, section 6359, subsection 3, paragraph B take effect September 1, 2021.

② not mentioned = effective date of c. 154



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 798

H.P. 586

House of Representatives, February 12, 2019

**An Act To Protect Maine Children and Students from Preventable
Diseases by Repealing Certain Exemptions from the Laws
Governing Immunization Requirements**

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TIPPING of Orono.
Cosponsored by Representative TUCKER of Brunswick, Senator WOODSOME of York and
Representatives: BICKFORD of Auburn, HUBBELL of Bar Harbor, HYMANSON of York,
McDONALD of Stonington, MEYER of Eliot, PERRY of Calais, Senators: GRATWICK of
Penobscot, SANBORN, L. of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §6355, sub-§3**, as amended by PL 2001, c. 326, §2, is
3 repealed.

4 **Sec. 2. 20-A MRSA §6359, sub-§3, ¶B**, as amended by PL 2001, c. 326, §6, is
5 repealed.

6 **Sec. 3. 22 MRSA §802, sub-§4-B, ¶B**, as enacted by PL 2001, c. 185, §2, is
7 repealed.

8 **Sec. 4. 22 MRSA §8402, sub-§3, ¶A**, as amended by PL 2001, c. 645, §10, is
9 further amended to read:

10 A. The department shall adopt rules regarding the health of staff as required to
11 protect the health and safety of the children. The rules must include a requirement
12 that every 2 years each licensee, administrator or other staff member of the nursery
13 school who provides care for children be declared free from communicable disease
14 by a licensed physician, ~~except that this requirement may be waived for a person who~~
15 ~~objects on the grounds of sincerely held religious or philosophical belief.~~ Rules
16 adopted pursuant to this paragraph are routine technical rules as defined in Title 5,
17 chapter 375, subchapter ~~H-A~~ 2-A.

18 **Sec. 5. Rules.** The Department of Education and the Department of Health and
19 Human Services shall amend their rules to remove any rules exempting persons from
20 immunization requirements because of their religious or philosophical beliefs. Rules
21 adopted by the Department of Education must provide that a student who is covered by
22 an individualized education plan on the effective date of this Act and has elected a
23 philosophical or religious exemption from immunization requirements on or before the
24 effective date of this Act may continue to attend school under that student's existing
25 exemption as long as:

26 1. The parent or guardian of the student provides a statement from an appropriate
27 medical professional that the medical professional has consulted with that parent or
28 guardian and has made that parent or guardian aware of the risks and benefits associated
29 with the choice to immunize; or

30 2. If the student is 18 years of age or older, the student provides a statement from an
31 appropriate medical professional that the medical professional has consulted with that
32 student and has made that student aware of the risks and benefits associated with the
33 choice to immunize.

34 Rules adopted pursuant to this section are routine technical rules as defined in the
35 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

36 **SUMMARY**

37 Current law allows exemptions from immunization requirements based on religious
38 or philosophical beliefs for students in elementary and secondary schools and

9

1 postsecondary schools and employees of nursery schools and health care facilities. This
2 bill removes those exemptions. The bill also directs the Department of Education and the
3 Department of Health and Human Services to remove any immunization exemptions
4 based on religious or philosophical beliefs from their rules and requires the Department
5 of Education to adopt rules allowing a student who is covered by an individualized
6 education plan and has elected a philosophical or religious exemption from immunization
7 requirements to continue to attend school under the existing exemption as long as an
8 appropriate medical professional provides a statement that the medical professional has
9 provided information on the risks and benefits associated with the choice to immunize.

DMG
10/19

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Date: 4/19/19 Majority

L.D. 798
(Filing No. H- 126)

EDUCATION AND CULTURAL AFFAIRS

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 586, L.D. 798, Bill, "An Act To Protect Maine Children and Students from Preventable Diseases by Repealing Certain Exemptions from the Laws Governing Immunization Requirements"

Amend the bill by inserting after the enacting clause and before section 1 the following:

Sec. 1. 20-A MRSA §6355, sub-§2, as amended by PL 2001, c. 326, §2, is further amended to read:

2. Medical exemption. The parent or the child provides a physician's written statement from a licensed physician, nurse practitioner or physician assistant that, in the licensed physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable.

Amend the bill by inserting after section 1 the following:

Sec. 2. 20-A MRSA §6355, sub-§4 is enacted to read:

4. Student covered by individualized education plan. A student covered by an individualized education plan on September 1, 2021 who elected a philosophical or religious exemption from immunization requirements on or before September 1, 2021 pursuant to the law in effect prior to that date may continue to attend school under that student's existing exemption as long as:

A. The parent or guardian of the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that parent or guardian and has made that parent or guardian aware of the risks and benefits associated with the choice to immunize; or

B. If the student is 18 years of age or older, the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that student and has made that student aware of the risks and benefits associated with the choice to immunize.

COMMITTEE AMENDMENT

11

1 **Sec. 3. 20-A MRSA §6358**, as amended by PL 2001, c. 326, §3 and PL 2003, c.
2 689, Pt. B, §6, is further amended to read:

3 **§6358. Rules; requirements; reports**

4 **1. Rules authorized.** The commissioner and the Director of the Bureau of Health,
5 Maine Center for Disease Control and Prevention within the Department of Health and
6 Human Services, shall jointly issue rules necessary for the effective implementation of
7 this subchapter, including, but not limited to, rules specifying those diseases for which
8 immunization is required and establishing school record keeping and reporting
9 requirements or guidelines and procedures for the exclusion of nonimmunized children
10 from school. The rules may not include any provision governing medical exemptions.
11 Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5,
12 chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter
13 specifying the diseases for which immunization is required are major substantive rules as
14 defined in Title 5, chapter 375, subchapter H-A 2-A.

15 **2. Local requirements authorized.** Immunization requirements more stringent than
16 the provisions of this subchapter may be adopted by ordinance enacted by a municipality,
17 by regulation of a school board or by policy of a private school's governing board.

18 **3. Report.** By January 1st of each odd-numbered year, the Director of the Maine
19 Center for Disease Control and Prevention within the Department of Health and Human
20 Services shall submit a report to the joint standing committees of the Legislature having
21 jurisdiction over health and human services matters and education matters concerning any
22 new developments in the evaluation of vaccine safety and effectiveness. The joint
23 standing committees of the Legislature having jurisdiction over health and human
24 services matters and education matters are each authorized to submit a bill during the
25 legislative session in which the report was submitted.

26 **Sec. 4. 20-A MRSA §6359, sub-§3, ¶A**, as amended by PL 1991, c. 146, §3, is
27 further amended to read:

28 A. ~~The parent or the student provides a physician's written statement or a written~~
29 ~~statement from a school health provider~~ from a licensed physician, nurse practitioner
30 or physician assistant that, in the physician's, nurse practitioner's or physician
31 assistant's professional judgment, immunization against one or more of the diseases
32 may be medically inadvisable.'

33 Amend the bill by inserting after section 2 the following:

34 **'Sec. 3. 20-A MRSA §6359, sub-§6**, as amended by PL 1991, c. 146, §4, is
35 further amended to read:

36 **6. Rules; requirements; reports.** The Director of the Bureau of Health Maine
37 Center for Disease Control and Prevention within the Department of Health and Human
38 Services shall adopt rules necessary for the effective implementation of this subchapter,
39 including, but not limited to, rules establishing immunization requirements and medical
40 exceptions to receiving vaccines or toxoids for each disease, school record keeping and
41 reporting requirements or guidelines and procedures for the exclusion of nonimmunized
42 students from school. The rules may not include any provision governing medical
43 exemptions. Rules adopted pursuant to this subchapter are routine technical rules as

1 defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this
2 subchapter specifying the diseases for which immunization is required are major
3 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

4 Immunization requirements more stringent than the provisions of this subchapter may be
5 adopted by a school board or by policy of a private school's governing board.

6 **Sec. 4. 22 MRSA §802, sub-§4-B, ¶A,** as enacted by PL 2001, c. 185, §2, is
7 amended to read:

8 A. A medical exemption is available to an employee who provides a ~~physician's~~
9 written statement from a licensed physician, nurse practitioner or physician assistant
10 that, in the physician's, nurse practitioner's or physician assistant's professional
11 judgment, immunization against one or more diseases may be medically inadvisable.'

12 Amend the bill in section 4 in paragraph A in the 6th line (page 1, line 15 in L.D.) by
13 inserting after the following: "belief" the following: ', nurse practitioner or physician
14 assistant'

15 Amend the bill by striking out all of section 5 and inserting the following:

16 **Sec. 5. Rules.** The Department of Education and the Department of Health and
17 Human Services shall amend their rules to remove any rules exempting persons from
18 immunization requirements because of their religious or philosophical beliefs.

19 Rules adopted pursuant to this section are routine technical rules pursuant to the
20 Maine Revised Statutes, Title 20-A, section 6358, subsection 1 and section 6359,
21 subsection 6.

22 **Sec. 6. Effective date.** Those sections of this Act that amend the Maine Revised
23 Statutes, Title 22, section 802, subsection 4-B, paragraph A and Title 22, section 8402,
24 subsection 3, paragraph A and that repeal Title 20-A, section 6355, subsection 3 and Title
25 20-A, section 6359, subsection 3, paragraph B take effect September 1, 2021.'

26 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
27 section number to read consecutively.

28 **SUMMARY**

29 Current law allows exemptions from immunization requirements based on religious
30 or philosophical beliefs for students in elementary and secondary schools and
31 postsecondary schools and employees of nursery schools and health care facilities. This
32 amendment, which is the majority report, removes those exemptions effective September
33 1, 2021.

34 Current law relating to enrollment in any public or private elementary or secondary
35 school provides that the superintendent may not permit any child to be enrolled in or to
36 attend school without a certificate of immunization for each disease or other acceptable
37 evidence of required immunization or immunity against the disease except when the
38 parent or child provides a physician's written statement that immunization against one or
39 more of the diseases may be medically inadvisable. Instead, the amendment requires the
40 parent or child to provide a written statement from a licensed physician, nurse practitioner
41 or physician assistant that, in that physician's, nurse practitioner's or physician assistant's

(B)

New
(not
mentioned
in
Summary)

22
§802
sub-§4B
AB

1 professional judgment, immunization against one or more of the diseases may be
2 medically inadvisable.

3 Current law relating to immunization of students enrolled in any public or private
4 postsecondary school provides that a chief administrative officer may not permit a student
5 to be enrolled in or to attend a school without a certificate of immunization for each
6 disease or other acceptable evidence of required immunization or immunity against the
7 disease except when the parent or the student provides a physician's written statement or a
8 written statement from a school health provider that immunization against one or more of
9 the diseases may be medically inadvisable. Instead, the amendment requires that the
10 parent or the student provide a written statement from a licensed physician, nurse
11 practitioner or physician assistant that, in that physician's, nurse practitioner's or
12 physician assistant's professional judgment, immunization against one or more of the
13 diseases may be medically inadvisable.

14 The amendment keeps the directive in the unallocated section of the bill to the
15 Department of Education and the Department of Health and Human Services to remove
16 any immunization exemptions based on religious or philosophical beliefs from their rules.

17 The amendment places in statute the directive in the unallocated section of the bill
18 allowing a student who is covered by an individualized education plan and has elected a
19 philosophical or religious exemption from immunization requirements to continue to
20 attend school under the existing exemption as long as a licensed physician, nurse
21 practitioner or physician assistant provides a statement that the physician, nurse
22 practitioner or physician assistant has provided information on the risks and benefits
23 associated with the choice to immunize.

24 The amendment also requires the Director of the Maine Center for Disease Control
25 and Prevention within the Department of Health and Human Services to submit a report,
26 by January 1st of each odd-numbered year, to the joint standing committees of the
27 Legislature having jurisdiction over health and human services matters and education
28 matters concerning any new developments in the evaluation of vaccine safety and
29 effectiveness. The joint standing committees of the Legislature having jurisdiction over
30 health and human services matters and education matters are each authorized to submit a
31 bill during the legislative session in which the report was submitted.

32 **FISCAL NOTE REQUIRED**

33 (See attached)



129th MAINE LEGISLATURE

LD 798

LR 80(02)

An Act To Protect Maine Children and Students from Preventable Diseases by Repealing Certain Exemptions from the Laws Governing Immunization Requirements

Fiscal Note for Bill as Amended by Committee Amendment

A (H-120)

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services and the Department of Education to adopt the changes in this bill are expected to be minor and can be absorbed within existing budgeted resources.

*129th
Maine State
Legislature*

*Senate Majority Office
3 State House Station
Augusta, ME 04333*

*House Majority Office
2 State House Station
Augusta, ME 04333*

Sen. Mike Carpenter, Co-Chair
Rep. Donna Bailey, Co-Chair
Committee on Judiciary
Maine State Legislature
3 State House Station
Augusta, ME 04333

RE: Errors and Inconsistencies Omnibus Bill Request

Dear Chairman Carpenter and Chairwoman Bailey:

As you know, Joint Rule 311 provides for an omnibus bill to correct “errors and inconsistencies in the Laws of Maine.” The rule also designates the Judiciary Committee as the committee or jurisdiction for the bill and provides the possibility for amendments in committee.

We are writing to request an inconsistency in Maine be corrected within an errors and inconsistencies bill reported out of the Judiciary Committee for consideration in the next special session of the 129th Maine State Legislature.

When Public Law 2019, ch. 154 went into effect, it contained a drafting error related to the effective dates of two sections. Sections of the bill were intended to go into effect 30 days after the Governor proclaimed that P.L. 2019, ch. 154 had been ratified pursuant to the People’s Veto Election on March 3, 2020 (ultimately, the effective date of these sections was April 20, 2020), and the other sections of the bill were intended to go into effect on September 1, 2021.

Section 12 of P.L. 2019, ch. 154, which identified the parts of the law that would not go into effect until September 1, 2021 misidentified one statutory paragraph, relating to the sections of the bill that applied to employees of health care facilities, and resulted in one section that was intended to go into effect September 1, 2021 going into effect, instead, on April 20, 2020; and another section that was intended to go into effect on April 20, 2020, instead being delayed until September 1, 2021.

The intent of P.L. 2019, ch. 154 was for the section of the bill that repealed the religious or philosophical exemption for employees of health care facilities was to be effective September 1, 2021. However, due to the error, this section was repealed effective April 20, 2020. Additionally, Public Law 2019, ch. 154, expanded who may provide a medical exemptions for employees of health care facilities to include licensed physicians, nurse practitioner’s or physician’s assistants. This section of the bill was intended to go into effect April 20, 2020, but due to the error, currently has an effective date of September 1, 2021.

*TTY (207) 287-1583 * Message Service 1-800-423-6900 * Web Site: legislature.maine.gov/senate*

16

Therefore, we're requesting these dates be fixed to reflect what the committee intended when reporting out the bill in 2019. It is our understanding the Karen Nadeau and Hilary Risler, analysts in the Office of Policy and Legal Analysis, have discussed this issue with the Office of the Revisor of Statutes and are able to help draft the necessary correction should you be amendable to including it in the omnibus bill.

Thank you for your consideration of this request. We would be happy to answer any questions you have about this matter.

Sincerely,

Sen. Rebecca Millett, Co-Chair
Committee on Education and Cultural Affairs
Affairs

Rep. Tori Kornfield, Co-Chair
Committee on Education and Cultural
Affairs