

**Introduced by Senator Negrete McLeod**

February 18, 2011

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An act to amend Section 120440 of the Health and Safety Code, relating to public health.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 922, as introduced, Negrete McLeod. Immunizations: disclosure of information: tuberculosis screening.

Existing law regulates the sharing of a patient's or client's immunization information between a health care provider, local health department, the State Department of Public Health, and other agencies. Existing law prescribes the process by which a patient or client, or parent or guardian of a patient or client, may refuse to allow the information to be shared and requires the health care provider administering the immunization to provide the patient with designated notice. Existing law permits local health departments and the department to share the name of a patient or client, or parent or guardian of a patient or client, with a state, local health department, health care provider, immunization information system, or any representative of an entity designated by federal or state law to receive this information, and authorizes the department to enter into written agreements to share this information with other states for specified purposes, unless the patient or client, or parent or guardian of the patient or client, refuses to allow the information to be shared.

Under existing law, if the patient or client, or parent or guardian of a patient or client, refuses the sharing of immunization information, the patient's or client's physician is allowed to maintain access to this information for the purpose of patient care or protecting the public health. Existing law also allows the local health department and the

department to maintain access to this information for the purpose of protecting the public health.

This bill would include tuberculosis screening in the above immunization information provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 120440 of the Health and Safety Code  
2 is amended to read:

3 120440. (a) For the purposes of this chapter, the following  
4 definitions shall apply:

5 (1) “Health care provider” means any person licensed pursuant  
6 to Division 2 (commencing with Section 500) of the Business and  
7 Professions Code or a clinic or health facility licensed pursuant to  
8 Division 2 (commencing with Section 1200).

9 (2) “Schools, child care facilities, and family child care homes”  
10 means those institutions referred to in subdivision (b) of Section  
11 120335, regardless of whether they directly provide immunizations  
12 to patients or clients.

13 (3) “WIC service provider” means any public or private  
14 nonprofit agency contracting with the department to provide  
15 services under the California Special Supplemental Food Program  
16 for Women, Infants, and Children, as provided for in Article 2  
17 (commencing with Section 123275) of Chapter 1 of Part 2 of  
18 Division 106.

19 (4) “Health care plan” means a health care service plan as  
20 defined in subdivision (f) of Section 1345, a government-funded  
21 program the purpose of which is paying the costs of health care,  
22 or an insurer as described in Sections 10123.5 and 10123.55 of  
23 the Insurance Code, regardless of whether the plan directly provides  
24 immunizations to patients or clients.

25 (5) “County welfare department” means a county welfare agency  
26 administering the California Work Opportunity and Responsibility  
27 to Kids (CalWORKs) program, pursuant to Chapter 2 (commencing  
28 with Section 11200.5) of Part 3 of Division 9 of the Welfare and  
29 Institutions Code.

30 (6) “Foster care agency” means any of the county and state  
31 social services agencies providing foster care services in California.

(b) (1) Local health officers may operate immunization information systems pursuant to their authority under Section 120175, in conjunction with the Immunization Branch of the State Department of *Public Health-Services*. Local health officers and the State Department of *Public Health-Services* may operate these systems in either or both of the following manners:

(A) Separately within their individual jurisdictions.

(B) Jointly among more than one jurisdiction.

(2) Nothing in this subdivision shall preclude local health officers from sharing the information set forth in paragraphs (1) to-(9) (10), inclusive, of subdivision (c) with other health officers jointly operating the system.

(c) Notwithstanding Sections 49075 and 49076 of the Education Code, Chapter 5 (commencing with Section 10850) of Part 2 of Division 9 of the Welfare and Institutions Code, or any other provision of law, unless a refusal to permit recordsharing is made pursuant to subdivision (e), health care providers, and other agencies, including, but not limited to, schools, child care facilities, service providers for the California Special Supplemental Food Program for Women, Infants, and Children (WIC), health care plans, foster care agencies, and county welfare departments, may disclose the information set forth in paragraphs (1) to-(9) (10), inclusive, from the patient's medical record, or the client's record, to local health departments operating countywide or regional immunization information and reminder systems and the State Department of *Public Health-Services*. Local health departments and the State Department of *Public Health-Services* may disclose the information set forth in paragraphs (1) to-(9) (10), inclusive, to each other and, upon a request for information pertaining to a specific person, to health care providers taking care of the patient. Local health departments and the State Department of *Public Health-Services* may disclose the information in paragraphs (1) to (6), inclusive, and paragraphs-(8) (9) and-(9) (10), to schools, child care facilities, county welfare departments, and family child care homes to which the person is being admitted or in attendance, foster care agencies in assessing and providing medical care for children in foster care, and WIC service providers providing services to the person, health care plans arranging for immunization services for the patient, and county welfare departments assessing immunization histories of dependents of CalWORKs participants,

1 upon request for information pertaining to a specific person.  
2 Determination of benefits based upon immunization of a dependent  
3 CalWORKs participant shall be made pursuant to Section 11265.8  
4 of the Welfare and Institutions Code. The following information  
5 shall be subject to this subdivision:

6 (1) The name of the patient or client and names of the parents  
7 or guardians of the patient or client.

8 (2) Date of birth of the patient or client.

9 (3) Types and dates of immunizations received by the patient  
10 or client.

11 (4) Manufacturer and lot number for each immunization  
12 received.

13 (5) Adverse reaction to immunizations received.

14 (6) Other nonmedical information necessary to establish the  
15 patient's or client's unique identity and record.

16 (7) *Results of tuberculosis screening.*

17 ~~(7)~~

18 (8) Current address and telephone number of the patient or client  
19 and the parents or guardians of the patient or client.

20 ~~(8)~~

21 (9) Patient's or client's gender.

22 ~~(9)~~

23 (10) Patient's or client's place of birth.

24 (d) (1) Health care providers, local health departments, and the  
25 State Department of *Public Health Services* shall maintain the  
26 confidentiality of information listed in subdivision (c) in the same  
27 manner as other medical record information with patient  
28 identification that they possess. These providers, departments, and  
29 contracting agencies are subject to civil action and criminal  
30 penalties for the wrongful disclosure of the information listed in  
31 subdivision (c), in accordance with existing law. They shall use  
32 the information listed in subdivision (c) only for the following  
33 purposes:

34 (A) To provide immunization services to the patient or client,  
35 including issuing reminder notifications to patients or clients or  
36 their parents or guardians when immunizations are due.

37 (B) To provide or facilitate provision of third-party payer  
38 payments for immunizations.

39 (C) To compile and disseminate statistical information of  
40 immunization status on groups of patients or clients or populations

1 in California, without identifying information for these patients or  
2 clients included in these groups or populations.

3 (D) In the case of health care providers only, as authorized by  
4 Part 2.6 (commencing with Section 56) of Division 1 of the Civil  
5 Code.

6 (2) Schools, child care facilities, family child care homes, WIC  
7 service providers, foster care agencies, county welfare departments,  
8 and health care plans shall maintain the confidentiality of  
9 information listed in subdivision (c) in the same manner as other  
10 client, patient, and pupil information that they possess. These  
11 institutions and providers are subject to civil action and criminal  
12 penalties for the wrongful disclosure of the information listed in  
13 subdivision (c), in accordance with existing law. They shall use  
14 the information listed in subdivision (c) only for those purposes  
15 provided in subparagraphs (A) to (D), inclusive, of paragraph (1)  
16 and as follows:

17 (A) In the case of schools, child care facilities, family child care  
18 homes, and county welfare departments, to carry out their  
19 responsibilities regarding required immunization for attendance  
20 or participation benefits, or both, as described in Chapter 1  
21 (commencing with Section 120325), and in Section 11265.8 of  
22 the Welfare and Institutions Code.

23 (B) In the case of WIC service providers, to perform  
24 immunization status assessments of clients and to refer those clients  
25 found to be due or overdue for immunizations to health care  
26 providers.

27 (C) In the case of health care plans, to facilitate payments to  
28 health care providers, to assess the immunization status of their  
29 clients, and to tabulate statistical information on the immunization  
30 status of groups of patients, without including patient-identifying  
31 information in these tabulations.

32 (D) In the case of foster care agencies, to perform immunization  
33 status assessments of foster children and to assist those foster  
34 children found to be due or overdue for immunization in obtaining  
35 immunizations from health care providers.

36 (e) A patient or a patient's parent or guardian may refuse to  
37 permit recordsharing. The health care provider administering  
38 immunization and any other agency possessing any patient or client  
39 information listed in subdivision (c), if planning to provide patient  
40 or client information to an immunization system, as described in

1 subdivision (b), shall inform the patient or client, or the parent or  
2 guardian of the patient or client, of the following:

3 (1) The information listed in subdivision (c) may be shared with  
4 local health departments and the State Department of *Public Health*  
5 ~~Services~~. The health care provider or other agency shall provide  
6 the name and address of the State Department of *Public Health*  
7 ~~Services~~ or of the immunization registry with which the provider  
8 or other agency will share the information.

9 (2) Any of the information shared with local health departments  
10 and the State Department of *Public Health* ~~Services~~ shall be treated  
11 as confidential medical information and shall be used only to share  
12 with each other, and, upon request, with health care providers,  
13 schools, child care facilities, family child care homes, WIC service  
14 providers, county welfare departments, foster care agencies, and  
15 health care plans. These providers, agencies, and institutions shall,  
16 in turn, treat the shared information as confidential, and shall use  
17 it only as described in subdivision (d).

18 (3) The patient or client, or parent or guardian of the patient or  
19 client, has the right to examine any immunization-related  
20 information shared in this manner and to correct any errors in it.

21 (4) The patient or client, or the parent or guardian of the patient  
22 or client, may refuse to allow this information to be shared in the  
23 manner described, or to receive immunization reminder  
24 notifications at any time, or both. After refusal, the patient's or  
25 client's physician may maintain access to this information for the  
26 purposes of patient care or protecting the public health. After  
27 refusal, the local health department and the State Department of  
28 *Public Health* ~~Services~~ may maintain access to this information  
29 for the purpose of protecting the public health pursuant to Sections  
30 100325, 120140, and 120175, as well as Sections 2500 to 2643.20,  
31 inclusive, of Title 17 of the California Code of Regulations.

32 (f) (1) The health care provider administering the immunization  
33 *or tuberculosis screening* and any other agency possessing any  
34 patient or client information listed in subdivision (c), may inform  
35 the patient or client, or the parent or guardian of the patient or  
36 client, by ordinary mail, of the information in paragraphs (1) to  
37 (4), inclusive, of subdivision (e). The mailing must include a  
38 reasonable means for refusal, such as a return form or contact  
39 telephone number.

1 (2) The information in paragraphs (1) to (4), inclusive, of  
2 subdivision (e) may also be presented to the parent or guardian of  
3 the patient or client during any hospitalization of the patient or  
4 client.

5 (g) If the patient or client, or parent or guardian of the patient  
6 or client, refuses to allow the information to be shared, pursuant  
7 to paragraph (4) of subdivision (e), the health care provider or  
8 other agency may not share this information in the manner  
9 described in subdivision (c), except as provided in subparagraph  
10 (D) of paragraph (1) of subdivision (d).

11 (h) (1) Upon request of the patient or client, or the parent or  
12 guardian of the patient or client, in writing or by other means  
13 acceptable to the recipient, a local health department or the State  
14 Department of *Public Health Services* that has received information  
15 about a person pursuant to subdivision (c) shall do all of the  
16 following:

17 (A) Provide the name and address of other persons or agencies  
18 with whom the recipient has shared the information.

19 (B) Stop sharing the information in its possession after the date  
20 of the receipt of the request.

21 (2) After refusal, the patient's or client's physician may maintain  
22 access to this information for the purposes of patient care or  
23 protecting the public health. After refusal, the local health  
24 department and the State Department of *Public Health Services*  
25 may maintain access to this information for the purpose of  
26 protecting the public health pursuant to Sections 100325, 120140,  
27 and 120175, as well as Sections 2500 to 2643.20, inclusive, of  
28 Title 17 of the California Code of Regulations.

29 (i) Upon notification, in writing or by other means acceptable  
30 to the recipient, of an error in the information, a local health  
31 department or the State Department of *Public Health Services* that  
32 has information about a person pursuant to subdivision (c) shall  
33 correct the error. If the recipient is aware of a disagreement about  
34 whether an error exists, information to that effect may be included.

35 (j) (1) Any party authorized to make medical decisions for a  
36 patient or client, including, but not limited to, those authorized by  
37 Section 6922, 6926, or 6927 of, Part 1.5 (commencing with Section  
38 6550), Chapter 2 (commencing with Section 6910) of Part 4, or  
39 Chapter 1 (commencing with Section 7000) of Part 6, of Division  
40 11 of, the Family Code, Section 1530.6 of the Health and Safety

1 Code, or Sections 727 and 1755.3 of, and Article 6 (commencing  
2 with Section 300) of Chapter 2 of Part 1 of Division 2 of, the  
3 Welfare and Institutions Code, may permit sharing of the patient's  
4 or client's record with any of the immunization information  
5 systems authorized by this section.

6 (2) For a patient or client who is a dependent of a juvenile court,  
7 the court or a person or agency designated by the court may permit  
8 this recordsharing.

9 (3) For a patient or client receiving foster care, a person or  
10 persons licensed to provide residential foster care, or having legal  
11 custody, may permit this recordsharing.

12 (k) For purposes of supporting immunization information  
13 systems, the State Department of *Public Health-Services* shall  
14 assist the Immunization Branch of the State Department of *Public*  
15 *Health-Services* in both of the following:

16 (1) Providing department records containing information about  
17 publicly funded immunizations.

18 (2) Supporting efforts for the reporting of publicly funded  
19 immunizations into immunization information systems by health  
20 care providers and health care plans.

21 (l) Subject to any other provisions of state and federal law or  
22 regulation that limit the disclosure of health information and protect  
23 the privacy and confidentiality of personal information, local health  
24 departments and the State Department of *Public Health-Services*  
25 may share the information listed in subdivision (c) with a state,  
26 local health departments, health care providers, immunization  
27 information systems, or any representative of an entity designated  
28 by federal or state law or regulation to receive this information.  
29 The State Department of *Public Health-Services* may enter into  
30 written agreements to exchange confidential immunization  
31 information with other states for the purposes of patient care,  
32 protecting the public health, entrance into school, child care and  
33 other institutions requiring immunization prior to entry, and the  
34 other purposes described in subdivision (d). The written agreement  
35 shall provide that the state that receives confidential immunization  
36 information must maintain its confidentiality and may only use it  
37 for purposes of patient care, protecting the public health, entrance  
38 into school, child care and other institutions requiring immunization  
39 prior to entry, and the other purposes described in subdivision (d).  
40 Information may not be shared pursuant to this subdivision if a



- 1 patient or client, or parent or guardian of a patient or client, refuses
- 2 to allow the sharing of immunization information pursuant to
- 3 subdivision (e).

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