

AMENDED IN SENATE APRIL 2, 1998

SENATE BILL

No. 2222

Introduced by Senator Watson

February 20, 1998

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

LEGISLATIVE COUNSEL'S DIGEST

SB 2222, as amended, Watson. Immunizations: disclosure of information.

Existing law governing communicable disease prevention and immunization authorizes local health officers to operate immunization information systems. Existing law provides that certain health care providers, as defined, local health departments operating countywide immunization information and reminder systems, and the State Department of Health Services may disclose or share certain prescribed immunization-related information concerning individual patients, unless the patient refuses to consent to the sharing of this information. Existing law requires the health care provider administering immunization to provide the patient with designated notice.

This bill would expand the definition of health care provider for purposes of these provisions. The bill would authorize local health departments and the State Department of Health Services to disclose certain immunization information to schools, child care facilities, and family child care homes, service providers, as defined, and health care plans. The bill would ~~subject~~ *provide that* health care providers, local health

departments, the department, and certain persons or entities authorized to receive the immunization information ~~to are subject to existing~~ civil action and criminal penalties for the wrongful disclosure of the information. ~~The bill would create a new crime, thereby imposing a state-mandated local program.~~ The bill would revise the notice requirement of the health care provider administering immunization under these provisions.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: *yes no*.

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

1 SECTION 1. (a) The Legislature finds and declares
2 all of the following:

3 (1) Early childhood immunizations are essential to
4 protect the health of California children, yet a substantial
5 proportion of children do not receive timely standard
6 immunizations. *Lack of a statewide network of*
7 *automated, community-wide immunization tracking*
8 *systems in California leads to both an estimated minimum*
9 *cost of one million five hundred thousand dollars*
10 *(\$1,500,000) annually, associated with unnecessary*
11 *over-immunization, manual copying and verification of*
12 *immunization records and medical staff consultations on*
13 *immunizations needed by patients, and the increased*
14 *occurrence of vaccine-preventable disease, due to lower*
15 *immunization levels, with resulting costs averaging over*
16 *six million dollars (\$6,000,000) annually, and rising to over*
17 *thirty million dollars (\$30,000,000) in epidemic years.*

18 (2) In response to this problem, since fiscal year
19 1995–96, the Governor has proposed, and the Legislature
20 has approved, an appropriation of 3.5 million dollars



1 (\$3,500,000) in each budget year for the implementation
2 of immunization tracking systems.

3 (3) Communitywide immunization tracking systems
4 maintain current immunization records, including
5 records of severe immunization reactions, on all children.
6 This information is used to immediately provide
7 physicians with complete immunization histories of new
8 patients who come into their offices, to issue reminder
9 notifications to families when immunizations are due, and
10 to identify subpopulations of children with low
11 immunization coverage.

12 (4) Because of the importance of these systems, the
13 Legislature enacted legislation authorizing local health
14 departments and the State Department of Health
15 Services to operate communitywide immunization
16 tracking systems and allowing physicians to regularly
17 input patient identification and immunization history
18 information to these systems, provided that the patient
19 has been notified in advance and does not object.

20 (5) Schools and child care facilities are mandated by
21 law to require certain immunizations for attendance and
22 to obtain and maintain immunization records on their
23 pupils and clients. When a family has lost immunization
24 records, it can be difficult and time consuming for them
25 and their health care providers to obtain the necessary
26 records in order that their children may be admitted to
27 these institutions.

28 (6) Women, infants and children supplemental
29 nutrition (WIC) programs serve infants and young
30 children who are at highest risk of underimmunization.
31 Reviewing client immunization status at WIC service
32 sites and referring behind schedule infants and children
33 to their physicians for immunization has been shown to
34 substantially increase immunization coverage, without
35 restricting any WIC program benefits to families. Several
36 WIC service sites in California perform this activity, using
37 state or federal funds. However, WIC staff cannot assess
38 immunization records if clients fail to provide them, or if
39 the records they provide are incomplete.



1 (7) ~~Health~~ *Many health care plans are required by law*
 2 *to provide standard childhood immunizations as benefits.*
 3 *These plans need updated information on immunizations*
 4 *received by beneficiaries both to provide optimal*
 5 *immunization services to them, to facilitate payments to*
 6 *health care providers, and to assess how well their clients*
 7 *are immunized. Lack of ready access to complete current*
 8 *immunization records of their clients impedes these*
 9 *functions.*

10 ~~(8) Schools, child care facilities, WIC service sites, and~~
 11 ~~health care plans in California all have well established~~
 12 ~~procedures for maintaining the confidentiality of client~~
 13 ~~immunization histories and are liable for civil and~~
 14 ~~criminal penalties for their inappropriate disclosure.~~

15 *(8) Pursuant to existing state and federal statutes and*
 16 *regulations, schools, child care facilities, WIC service*
 17 *sites, and health care plans in California are all required*
 18 *to have specific and well-established procedures for*
 19 *maintaining the confidentiality of patient and client*
 20 *records containing immunization histories, as well as for*
 21 *patient or client access to these records. These entities are*
 22 *subject to civil and criminal penalties for inappropriate*
 23 *disclosure of these records.*

24 (b) In light of all the findings set forth in subdivision
 25 (a), in enacting this legislation, it is the intent of the
 26 Legislature to help infants and children receive
 27 immunizations in a more timely manner through
 28 immunization tracking systems providing appropriate
 29 information to specified agencies and entities serving
 30 these clients.

31 SEC. 2. Section 120440 of the Health and Safety Code
 32 is amended to read:

33 120440. (a) For the purposes of this chapter, the
 34 following definitions shall apply:

35 (1) "Health care provider" means any person licensed
 36 pursuant to Division 2 (commencing with Section 500) of
 37 the Business and Professions Code or a clinic or health
 38 facility licensed pursuant to Division 2 (commencing
 39 with Section 1200). "Health care provider" also means
 40 schools, child care facilities, family child care homes,



1 ~~women, infants, and children nutrition~~ *Special*
2 *Supplemental Nutrition Program for Women, Infants,*
3 *and Children (WIC)* service providers, as defined in
4 paragraph (3), and health care plans that provide
5 immunization to patients *or clients*.

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

11 ~~(3) “Women, infants, and children service provider”~~
12 ~~means any public or private nonprofit agency contracting~~
13 ~~with the department to provide supplemental nutrition~~
14 ~~program services to women, infants, and children.~~

15 (3) “WIC service provider” means any public or
16 private nonprofit agency contracting with the
17 department to provide services to women, infants, and
18 children pursuant to Article 2 (commencing with Section
19 123275) of Chapter 1 of Part 2 of Division 106, *regardless*
20 *of whether the agency directly provides immunizations*
21 *to patients or clients*.

22 (4) “Health care plan” means a health care service
23 plan as defined in subdivision (f) of Section 1345 or an
24 insurer as described in Sections 10123.5 and 10123.55 of
25 the Insurance Code, *regardless of whether the plan*
26 *directly provides immunizations to patients or clients*.

27 (b) Local health officers may operate immunization
28 information systems pursuant to their authority under
29 Section 120175, in conjunction with the Immunization
30 Branch of the State Department of Health Services.

31 (c) Notwithstanding any other provision of law, unless
32 a refusal to permit recordsharing is made pursuant to
33 subdivision (e), health care providers may disclose the
34 information set forth in paragraphs (1) to (9), inclusive,
35 from the patient’s medical record to local health
36 departments operating countywide immunization
37 information and reminder systems and the State
38 Department of Health Services. Local health
39 departments and the State Department of Health
40 Services may disclose the information set forth in



1 paragraphs (1) to (9), inclusive, to other local health
2 departments and health care providers taking care of the
3 patient, schools, child care facilities, and family child care
4 homes to which the person is being admitted or in
5 attendance, and ~~women, infants, and children~~ WIC
6 service providers and health care plans providing
7 services, upon request for information pertaining to a
8 specific person. All of the following information shall be
9 subject to this subdivision:

10 (1) The name of the patient and names of the patient's
11 parents or guardians.

12 (2) Date of birth of the patient.

13 (3) Types and dates of immunizations received by the
14 patient.

15 (4) Manufacturer and lot number for each
16 immunization received.

17 (5) Adverse reaction to immunizations received.

18 (6) Other nonmedical information necessary to
19 establish the patient's unique identity and record.

20 (7) Current address and telephone number of the
21 patient and the patient's parents or guardians.

22 (8) Patient's gender.

23 (9) Patient's place of birth.

24 (d) (1) Health care providers, local health
25 departments, and the State Department of Health
26 Services shall maintain the confidentiality of information
27 listed in subdivision (c) in the same manner as other
28 medical record information with patient identification
29 that they possess. ~~They shall be~~ *These providers and*
30 *departments are* subject to civil action and criminal
31 penalties for the wrongful disclosure of the information
32 listed in subdivision (c) ~~as described in Sections 56.35 and~~
33 ~~56.36 of the Civil Code,~~ *in accordance with existing law.*
34 They shall use the information listed in subdivision (c)
35 only for the following purposes:

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

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



1 (C) To compile and disseminate statistical information
2 of immunization status on groups of patients or
3 populations in California, without patient identifying
4 information for these patients included in these groups or
5 populations.

6 (2) Schools, child care facilities, family child care
7 homes, ~~women, infants, and children~~ WIC service
8 providers, and health care plans shall maintain the
9 confidentiality of information listed in subdivision (c) in
10 the same manner as other client and pupil information
11 that they possess. ~~They shall be~~ *These institutions and*
12 *providers are* subject to civil action and criminal penalties
13 for the wrongful disclosure of the information listed in
14 subdivision (c) ~~as described in Sections 1798.53 and~~
15 ~~1798.57 of the Civil Code,~~ *in accordance with existing law.*
16 They shall use the information listed in subdivision (c)
17 only for those purposes provided in subparagraphs (A) to
18 (C), inclusive, of paragraph (1) and as follows:

19 (A) In the case of schools, child care facilities, and
20 family child care homes, to carry out their responsibilities
21 regarding required immunization for attendance, as
22 described in Chapter 1 (commencing with Section
23 120325).

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

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

34 (e) A patient or a patient's parent or guardian may
35 refuse to permit recordsharing. The health care provider
36 administering immunization shall inform the patient or
37 the patient's parent or guardian of the following:

38 (1) The information listed in subdivision (c) may be
39 shared with local health departments, and the State
40 Department of Health Services. The health care provider



1 shall provide the name and address of the department or
2 departments with which the provider will share the
3 information.

4 (2) Any of the information shared with local health
5 departments and the State Department of Health
6 Services shall be treated as confidential medical
7 information and shall be used only to share with health
8 care providers, schools, child care facilities, family child
9 care homes, ~~women, infants, and children~~ WIC service
10 providers, and health care plans, upon request. These
11 providers, agencies, and institutions shall, in turn, treat
12 the shared information as confidential, and shall use it
13 only to help provide immunization services to the
14 patient, to issue reminder notifications to the patient or
15 patient's parent or guardian if immunizations are due or
16 overdue, or, in the case of schools, child care facilities, and
17 family child care homes, to help children document
18 receipt of immunizations required by state law for
19 attendance.

20 (3) The patient or patient's parent or guardian has the
21 right to examine any immunization-related information
22 shared in this manner and to correct any errors in it.

23 (4) The patient or the patient's parent or guardian
24 may refuse to allow this information to be shared in the
25 manner described, or to receive immunization reminder
26 notifications at any time, or both.

27 (f) If the patient or patient's parent or guardian
28 refuses to allow the information to be shared, pursuant to
29 paragraph (4) of subdivision (e), the health care provider
30 shall not share this information in the manner described
31 in subdivision (c).

32 (g) Upon request of the patient or the patient's parent
33 or guardian, in writing or by other means acceptable to
34 the recipient, a local health department or the State
35 Department of Health Services that has received
36 information about a person pursuant to subdivision (c)
37 shall do all of the following:

38 (1) Provide the name and address of other persons or
39 agencies with whom the recipient has shared the
40 information.



1 (2) Stop sharing the information in its possession after
2 the date of the receipt of the request.

3 (h) Upon notification, in writing or by other means
4 acceptable to the recipient, of an error in the information,
5 a local health department or the State Department of
6 Health Services that has information about a person
7 pursuant to subdivision (c) shall correct the error. If the
8 recipient is aware of a disagreement about whether an
9 error exists, information to that effect may be included.

10 (i) Section 120330 shall not apply to this section.

11 ~~SEC. 3. No reimbursement is required by this act~~
12 ~~pursuant to Section 6 of Article XIII B of the California~~
13 ~~Constitution because the only costs that may be incurred~~
14 ~~by a local agency or school district will be incurred~~
15 ~~because this act creates a new crime or infraction,~~
16 ~~eliminates a crime or infraction, or changes the penalty~~
17 ~~for a crime or infraction, within the meaning of Section~~
18 ~~17556 of the Government Code, or changes the definition~~
19 ~~of a crime within the meaning of Section 6 of Article~~
20 ~~XIII B of the California Constitution.~~

21 ~~Notwithstanding Section 17580 of the Government~~
22 ~~Code, unless otherwise specified, the provisions of this act~~
23 ~~shall become operative on the same date that the act~~
24 ~~takes effect pursuant to the California Constitution.~~

