

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 922

Introduced by Senator Negrete McLeod

February 18, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 922, as amended, 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, the patient or client, or parent or guardian of the patient or client, has the right to examine shared immunization-related information and to correct errors in it.*

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, *as defined*, 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

1 to Kids (CalWORKs) program, pursuant to Chapter 2 (commencing
2 with Section 11200.5) of Part 3 of Division 9 of the Welfare and
3 Institutions Code.

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

6 (7) *“Tuberculosis screening” means an approved intradermal*
7 *tuberculin test or any other test for tuberculosis infection that is*
8 *recommended by the federal Centers for Disease Control and*
9 *Prevention and licensed by the federal Food and Drug*
10 *Administration.*

11 (b) (1) Local health officers may operate immunization
12 information systems pursuant to their authority under Section
13 120175, in conjunction with the Immunization Branch of the State
14 Department of Public Health. Local health officers and the State
15 Department of Public Health may operate these systems in either
16 or both of the following manners:

17 (A) Separately within their individual jurisdictions.

18 (B) Jointly among more than one jurisdiction.

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

23 (c) Notwithstanding Sections 49075 and 49076 of the Education
24 Code, Chapter 5 (commencing with Section 10850) of Part 2 of
25 Division 9 of the Welfare and Institutions Code, or any other
26 provision of law, unless a refusal to permit recordsharing is made
27 pursuant to subdivision (e), health care providers, and other
28 agencies, including, but not limited to, schools, child care facilities,
29 service providers for the California Special Supplemental Food
30 Program for Women, Infants, and Children (WIC), health care
31 plans, foster care agencies, and county welfare departments, may
32 disclose the information set forth in paragraphs (1) to (10),
33 inclusive, from the patient’s medical record, or the client’s record,
34 to local health departments operating countywide or regional
35 immunization information and reminder systems and the State
36 Department of Public Health. Local health departments and the
37 State Department of Public Health may disclose the information
38 set forth in paragraphs (1) to (10), inclusive, to each other and,
39 upon a request for information pertaining to a specific person, to
40 health care providers taking care of the patient. Local health

1 departments and the State Department of Public Health may
2 disclose the information in paragraphs (1) to (6), inclusive, and
3 paragraphs (9) and (10), to schools, child care facilities, county
4 welfare departments, and family child care homes to which the
5 person is being admitted or in attendance, foster care agencies in
6 assessing and providing medical care for children in foster care,
7 and WIC service providers providing services to the person, health
8 care plans arranging for immunization services for the patient, and
9 county welfare departments assessing immunization histories of
10 dependents of CalWORKs participants, upon request for
11 information pertaining to a specific person. Determination of
12 benefits based upon immunization of a dependent CalWORKs
13 participant shall be made pursuant to Section 11265.8 of the
14 Welfare and Institutions Code. The following information shall
15 be subject to this subdivision:

16 (1) The name of the patient or client and names of the parents
17 or guardians of the patient or client.

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

19 (3) Types and dates of immunizations received by the patient
20 or client.

21 (4) Manufacturer and lot number for each immunization
22 received.

23 (5) Adverse reaction to immunizations received.

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

26 (7) Results of tuberculosis screening.

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

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

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

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

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

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

6 (C) To compile and disseminate statistical information of
7 immunization status on groups of patients or clients or populations
8 in California, without identifying information for these patients or
9 clients included in these groups or populations.

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

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

24 (A) In the case of schools, child care facilities, family child care
25 homes, and county welfare departments, to carry out their
26 responsibilities regarding required immunization for attendance
27 or participation benefits, or both, as described in Chapter 1
28 (commencing with Section 120325), and in Section 11265.8 of
29 the Welfare and Institutions Code.

30 (B) In the case of WIC service providers, to perform
31 immunization status assessments of clients and to refer those clients
32 found to be due or overdue for immunizations to health care
33 providers.

34 (C) In the case of health care plans, to facilitate payments to
35 health care providers, to assess the immunization status of their
36 clients, and to tabulate statistical information on the immunization
37 status of groups of patients, without including patient-identifying
38 information in these tabulations.

39 (D) In the case of foster care agencies, to perform immunization
40 status assessments of foster children and to assist those foster

1 children found to be due or overdue for immunization in obtaining
2 immunizations from health care providers.

3 (e) A patient or a patient's parent or guardian may refuse to
4 permit recordsharing. The health care provider administering
5 immunization and any other agency possessing any patient or client
6 information listed in subdivision (c), if planning to provide patient
7 or client information to an immunization system, as described in
8 subdivision (b), shall inform the patient or client, or the parent or
9 guardian of the patient or client, of the following:

10 (1) The information listed in subdivision (c) may be shared with
11 local health departments and the State Department of Public Health.
12 The health care provider or other agency shall provide the name
13 and address of the State Department of Public Health or of the
14 immunization registry with which the provider or other agency
15 will share the information.

16 (2) Any of the information shared with local health departments
17 and the State Department of Public Health shall be treated as
18 confidential medical information and shall be used only to share
19 with each other, and, upon request, with health care providers,
20 schools, child care facilities, family child care homes, WIC service
21 providers, county welfare departments, foster care agencies, and
22 health care plans. These providers, agencies, and institutions shall,
23 in turn, treat the shared information as confidential, and shall use
24 it only as described in subdivision (d).

25 (3) The patient or client, or parent or guardian of the patient or
26 client, has the right to examine any immunization-related
27 information *or tuberculosis screening results* shared in this manner
28 and to correct any errors in it.

29 (4) The patient or client, or the parent or guardian of the patient
30 or client, may refuse to allow this information to be shared in the
31 manner described, or to receive immunization reminder
32 notifications at any time, or both. After refusal, the patient's or
33 client's physician may maintain access to this information for the
34 purposes of patient care or protecting the public health. After
35 refusal, the local health department and the State Department of
36 Public Health may maintain access to this information for the
37 purpose of protecting the public health pursuant to Sections
38 100325, 120140, and 120175, as well as Sections 2500 to 2643.20,
39 inclusive, of Title 17 of the California Code of Regulations.

1 (f) (1) The health care provider administering the immunization
2 or tuberculosis screening and any other agency possessing any
3 patient or client information listed in subdivision (c), may inform
4 the patient or client, or the parent or guardian of the patient or
5 client, by ordinary mail, of the information in paragraphs (1) to
6 (4), inclusive, of subdivision (e). The mailing must include a
7 reasonable means for refusal, such as a return form or contact
8 telephone number.

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

13 (g) If the patient or client, or parent or guardian of the patient
14 or client, refuses to allow the information to be shared, pursuant
15 to paragraph (4) of subdivision (e), the health care provider or
16 other agency may not share this information in the manner
17 described in subdivision (c), except as provided in subparagraph
18 (D) of paragraph (1) of subdivision (d).

19 (h) (1) Upon request of the patient or client, or the parent or
20 guardian of the patient or client, in writing or by other means
21 acceptable to the recipient, a local health department or the State
22 Department of Public Health that has received information about
23 a person pursuant to subdivision (c) shall do all of the following:

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

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

28 (2) After refusal, the patient's or client's physician may maintain
29 access to this information for the purposes of patient care or
30 protecting the public health. After refusal, the local health
31 department and the State Department of Public Health may
32 maintain access to this information for the purpose of protecting
33 the public health pursuant to Sections 100325, 120140, and 120175,
34 as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the
35 California Code of Regulations.

36 (i) Upon notification, in writing or by other means acceptable
37 to the recipient, of an error in the information, a local health
38 department or the State Department of Public Health that has
39 information about a person pursuant to subdivision (c) shall correct

1 the error. If the recipient is aware of a disagreement about whether
2 an error exists, information to that effect may be included.

3 (j) (1) Any party authorized to make medical decisions for a
4 patient or client, including, but not limited to, those authorized by
5 Section 6922, 6926, or 6927 of, Part 1.5 (commencing with Section
6 6550), Chapter 2 (commencing with Section 6910) of Part 4, or
7 Chapter 1 (commencing with Section 7000) of Part 6, of Division
8 11 of, the Family Code, Section 1530.6 of the Health and Safety
9 Code, or Sections 727 and 1755.3 of, and Article 6 (commencing
10 with Section 300) of Chapter 2 of Part 1 of Division 2 of, the
11 Welfare and Institutions Code, may permit sharing of the patient's
12 or client's record with any of the immunization information
13 systems authorized by this section.

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

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

20 (k) For purposes of supporting immunization information
21 systems, the State Department of Public Health shall assist the
22 Immunization Branch of the State Department of Public Health in
23 both of the following:

24 (1) Providing department records containing information about
25 publicly funded immunizations.

26 (2) Supporting efforts for the reporting of publicly funded
27 immunizations into immunization information systems by health
28 care providers and health care plans.

29 (l) Subject to any other provisions of state and federal law or
30 regulation that limit the disclosure of health information and protect
31 the privacy and confidentiality of personal information, local health
32 departments and the State Department of Public Health may share
33 the information listed in subdivision (c) with a state, local health
34 departments, health care providers, immunization information
35 systems, or any representative of an entity designated by federal
36 or state law or regulation to receive this information. The State
37 Department of Public Health may enter into written agreements
38 to exchange confidential immunization information with other
39 states for the purposes of patient care, protecting the public health,
40 entrance into school, child care and other institutions requiring

1 immunization prior to entry, and the other purposes described in
2 subdivision (d). The written agreement shall provide that the state
3 that receives confidential immunization information must maintain
4 its confidentiality and may only use it for purposes of patient care,
5 protecting the public health, entrance into school, child care and
6 other institutions requiring immunization prior to entry, and the
7 other purposes described in subdivision (d). Information may not
8 be shared pursuant to this subdivision if a patient or client, or parent
9 or guardian of a patient or client, refuses to allow the sharing of
10 immunization information pursuant to subdivision (e).

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13 **CORRECTIONS:** _____

14 **Text—Page 6.**
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