

**Introduced by Senator Wolk**

February 24, 2015

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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 370, as introduced, Wolk. 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, a 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 a 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, unless the patient or client or patient's or client's parent or guardian, refuses the recordsharing of information, 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, to local health departments operating countywide or regional immunization information and reminder systems and the department, specified information, including, but not limited to, the name, date of birth, gender, and birthplace of a patient or client.

This bill would include the patient's or client's height, weight, and body mass index, and other patient or client information of public health importance as determined by the department, in consultation with the California Conference of Local Health Officers, in the list of information that may be shared.

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

1 the Insurance Code, regardless of whether the plan directly provides  
2 immunizations to patients or clients.

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

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

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

15 (b) (1) Local health officers may operate immunization  
16 information systems pursuant to their authority under Section  
17 120175, in conjunction with the Immunization Branch of the State  
18 Department of Public Health. Local health officers and the State  
19 Department of Public Health may operate these systems in either  
20 or both of the following manners:

21 (A) Separately within their individual jurisdictions.

22 (B) Jointly among more than one jurisdiction.

23 (2) Nothing in this subdivision shall preclude local health  
24 officers from sharing the information set forth in paragraphs (1)  
25 to ~~(10)~~, (12), inclusive, of subdivision (c) with other health officers  
26 jointly operating the system.

27 (c) Notwithstanding Sections 49075 and 49076 of the Education  
28 Code, Chapter 5 (commencing with Section 10850) of Part 2 of  
29 Division 9 of the Welfare and Institutions Code, or any other  
30 provision of law, unless a refusal to permit recordsharing is made  
31 pursuant to subdivision (e), health care providers, and other  
32 agencies, including, but not limited to, schools, child care facilities,  
33 service providers for the California Special Supplemental Food  
34 Program for Women, Infants, and Children (WIC), health care  
35 plans, foster care agencies, and county welfare departments, may  
36 disclose the information set forth in paragraphs (1) to ~~(10)~~, (12),  
37 inclusive, from the patient’s medical record, or the client’s record,  
38 to local health departments operating countywide or regional  
39 immunization information and reminder systems and the State  
40 Department of Public Health. Local health departments and the

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

20 (1) The name of the patient or client and names of the parents  
21 or guardians of the patient or client.

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

23 (3) Types and dates of immunizations received by the patient  
24 or client.

25 (4) Manufacturer and lot number for each immunization  
26 received.

27 (5) Adverse reaction to immunizations received.

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

30 (7) Results of tuberculosis screening.

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

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

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

35 (11) *Patient's height, weight, and body mass index.*

36 (12) *Other patient or client information of public health*  
37 *importance as determined by the State Department of Public Health*  
38 *in consultation with the California Conference of Local Health*  
39 *Officers.*

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

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

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

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

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

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

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

(B) In the case of WIC service providers, to perform immunization status assessments of clients and to refer those clients

1 found to be due or overdue for immunizations to health care  
2 providers.

3 (C) In the case of health care plans, to facilitate payments to  
4 health care providers, to assess the immunization status of their  
5 clients, and to tabulate statistical information on the immunization  
6 status of groups of patients, without including patient-identifying  
7 information in these tabulations.

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

12 (e) A patient or a patient's parent or guardian may refuse to  
13 permit recordsharing. The health care provider administering  
14 immunization and any other agency possessing any patient or client  
15 information listed in subdivision (c), if planning to provide patient  
16 or client information to an immunization system, as described in  
17 subdivision (b), shall inform the patient or client, or the parent or  
18 guardian of the patient or client, of the following:

19 (1) The information listed in subdivision (c) may be shared with  
20 local health departments and the State Department of Public Health.  
21 The health care provider or other agency shall provide the name  
22 and address of the State Department of Public Health or of the  
23 immunization registry with which the provider or other agency  
24 will share the information.

25 (2) Any of the information shared with local health departments  
26 and the State Department of Public Health shall be treated as  
27 confidential medical information and shall be used only to share  
28 with each other, and, upon request, with health care providers,  
29 schools, child care facilities, family child care homes, WIC service  
30 providers, county welfare departments, foster care agencies, and  
31 health care plans. These providers, agencies, and institutions shall,  
32 in turn, treat the shared information as confidential, and shall use  
33 it only as described in subdivision (d).

34 (3) The patient or client, or parent or guardian of the patient or  
35 client, has the right to examine any immunization-related  
36 information or tuberculosis screening results shared in this manner  
37 and to correct any errors in it.

38 (4) The patient or client, or the parent or guardian of the patient  
39 or client, may refuse to allow this information to be shared in the  
40 manner described, or to receive immunization reminder

1 notifications at any time, or both. After refusal, the patient's or  
2 client's physician may maintain access to this information for the  
3 purposes of patient care or protecting the public health. After  
4 refusal, the local health department and the State Department of  
5 Public Health may maintain access to this information for the  
6 purpose of protecting the public health pursuant to Sections  
7 100325, 120140, and 120175, as well as Sections 2500 to 2643.20,  
8 inclusive, of Title 17 of the California Code of Regulations.

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

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

21 (g) If the patient or client, or parent or guardian of the patient  
22 or client, refuses to allow the information to be shared, pursuant  
23 to paragraph (4) of subdivision (e), the health care provider or  
24 other agency may not share this information in the manner  
25 described in subdivision (c), except as provided in subparagraph  
26 (D) of paragraph (1) of subdivision (d).

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

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

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

36 (2) After refusal, the patient's or client's physician may maintain  
37 access to this information for the purposes of patient care or  
38 protecting the public health. After refusal, the local health  
39 department and the State Department of Public Health may  
40 maintain access to this information for the purpose of protecting

1 the public health pursuant to Sections 100325, 120140, and 120175,  
2 as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the  
3 California Code of Regulations.

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

10 (j) (1) Any party authorized to make medical decisions for a  
11 patient or client, including, but not limited to, those authorized by  
12 Section 6922, 6926, or 6927 of, Part 1.5 (commencing with Section  
13 6550), Chapter 2 (commencing with Section 6910) of Part 4, or  
14 Chapter 1 (commencing with Section 7000) of Part 6, of Division  
15 11 of, the Family Code, Section 1530.6 of the Health and Safety  
16 Code, or Sections 727 and 1755.3 of, and Article 6 (commencing  
17 with Section 300) of Chapter 2 of Part 1 of Division 2 of, the  
18 Welfare and Institutions Code, may permit sharing of the patient's  
19 or client's record with any of the immunization information  
20 systems authorized by this section.

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

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

27 (k) For purposes of supporting immunization information  
28 systems, the State Department of Public Health shall assist the  
29 Immunization Branch of the State Department of Public Health in  
30 both of the following:

31 (1) Providing department records containing information about  
32 publicly funded immunizations.

33 (2) Supporting efforts for the reporting of publicly funded  
34 immunizations into immunization information systems by health  
35 care providers and health care plans.

36 (l) Subject to any other provisions of state and federal law or  
37 regulation that limit the disclosure of health information and protect  
38 the privacy and confidentiality of personal information, local health  
39 departments and the State Department of Public Health may share  
40 the information listed in subdivision (c) with a state, local health



1 departments, health care providers, immunization information  
2 systems, or any representative of an entity designated by federal  
3 or state law or regulation to receive this information. The State  
4 Department of Public Health may enter into written agreements  
5 to exchange confidential immunization information with other  
6 states for the purposes of patient care, protecting the public health,  
7 entrance into school, child care and other institutions requiring  
8 immunization prior to entry, and the other purposes described in  
9 subdivision (d). The written agreement shall provide that the state  
10 that receives confidential immunization information must maintain  
11 its confidentiality and may only use it for purposes of patient care,  
12 protecting the public health, entrance into school, child care and  
13 other institutions requiring immunization prior to entry, and the  
14 other purposes described in subdivision (d). Information may not  
15 be shared pursuant to this subdivision if a patient or client, or parent  
16 or guardian of a patient or client, refuses to allow the sharing of  
17 immunization information pursuant to subdivision (e).

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