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AMENDED IN ASSEMBLY JUNE 17, 2019  
AMENDED IN SENATE MAY 17, 2019  
AMENDED IN SENATE APRIL 30, 2019  
AMENDED IN SENATE APRIL 9, 2019  
AMENDED IN SENATE MARCH 25, 2019

**SENATE BILL**

**No. 276**

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**Introduced by Senator Pan**

(Principal coauthor: Assembly Member Gonzalez)

**(Coauthor: Senator Wiener)**

~~(Coauthor: Coauthors: Assembly Member Aguiar-Curry~~ *Members  
Aguiar-Curry, Chiu, Cooper, and Quirk)*

February 13, 2019

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An act to amend Sections 120370, 120375, and 120440 of, and to add Sections 120372 and 120372.05 to, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 276, as amended, Pan. Immunizations: medical exemptions.

Existing law prohibits the governing authority of a school or other institution from admitting for attendance any pupil who fails to obtain required immunizations within the time limits prescribed by the State Department of Public Health. Existing law exempts from those requirements a pupil whose parents have filed with the governing authority a written statement by a licensed physician to the effect that immunization is not considered safe for that child, indicating the specific

nature and probable duration of their medical condition or circumstances, including, but not limited to, family medical history.

This bill would instead require the State Department of Public Health, by January 1, 2021, to develop and make available for use by licensed physicians and surgeons an electronic, standardized, statewide medical exemption request that would be transmitted using the California Immunization Registry (CAIR), and which, commencing January 1, 2021, would be the only documentation of a medical exemption that a governing authority may accept. The bill would specify the information to be included in the medical exemption form, including a certification under penalty of perjury that the statements and information contained in the form are true, accurate, and complete. The bill would, commencing January 1, 2021, require a physician and surgeon to inform a parent or guardian of the bill's requirements and to examine the child and submit a completed medical exemption request form to the department, as specified. By expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would require a parent or guardian, by January 1, 2021, to submit to the department a copy of a medical exemption granted prior to that date for inclusion in ~~the CAIR~~ *a state database* in order for the medical exemption to remain valid. ~~The bill would authorize the State Public Health Officer to deny or revoke a medical exemption granted prior to January 1, 2021, at the request of a local public health officer who determines that the medical exemption is fraudulent or inconsistent with guidelines established by designated entities.~~ The bill would require the department to annually review immunization reports from schools and institutions to identify schools with an *overall* immunization rate of less than ~~95% and~~ 95%, physicians and surgeons who submitted 5 or more medical exemption forms in a ~~calendar year.~~ *year, and schools and institutions that do not report immunization rates to the department.* The bill would require a clinically trained department staff member *who is a physician and surgeon or a registered nurse* to review all medical exemption forms submitted meeting those conditions. The bill would authorize the medical exemptions ~~identified as fraudulent or inconsistent with the established guidelines to be denied or determined by that staff member to be inappropriate or otherwise invalid to be reviewed by the State Public Health Officer or a physician and surgeon designated by the State Public Health Officer, and~~ revoked by the State Public Health Officer or a physician and surgeon ~~designated by the Public Health Officer~~ *designee*, under prescribed circumstances.

The bill would authorize a parent or guardian to appeal a medical exemption denial or revocation to the Secretary of California Health and Human Services. The appeal would be conducted by an independent expert review panel of licensed physicians and ~~services appointed surgeons established~~ by the secretary. The bill would require the independent expert review panel to evaluate appeals consistent with specified guidelines and to submit its ~~findings and recommendations~~ *decision* to the secretary. The bill would require the ~~secretary's final decision to be consistent with the findings of the independent expert review panel;~~ *secretary to adopt the determination of the independent expert review panel and promptly issue a written decision to the child's parent or guardian.* The final ~~determination~~ *decision* of the secretary would not be subject to further administrative review. *The bill would allow a child whose medical exemption revocation is appealed to continue in attendance at the school or institution without being required to commence the immunization schedule required for conditional admittance, provided that the appeal is filed within 30 calendar days of revocation of the medical exemption.*

The bill would require the department and the independent expert review panel to comply with all applicable state and federal privacy and confidentiality laws and would authorize disclosure of information submitted in the medical exemption form in accordance with requirements set forth in the bill. The bill would make related conforming changes. *The bill would authorize the department to implement and administer the medical exemption provisions through provider bulletins, or similar instructions, without taking regulatory action.*

Existing law requires the governing authority of a school or other institution to file a written report on the immunization status of new entrants to the school or institution under their jurisdiction with the department and the local health department at times and on forms prescribed by the department.

This bill would instead require these reports to be filed ~~annually;~~ *on at least an annual basis.*

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.

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

1 SECTION 1. The Legislature finds and declares all of the  
2 following:  
3 (a) Immunizations are public health measures to ensure  
4 protection against debilitating and sometimes fatal diseases.  
5 (b) Immunization requirements have led to greatly diminished  
6 or eliminated debilitating childhood diseases, such as measles.  
7 (c) According to the State Department of Public Health  
8 immunization assessment for the 2018–19 school year:  
9 (1) The immunization rate, or the rate at which children  
10 attending school are fully vaccinated on schedule, for  
11 kindergarten-aged children was 94.8 percent, which is 0.3 percent  
12 less than the previous school year.  
13 (2) Of the schools reporting, 16 percent of California counties  
14 had kindergarten immunization rates below 90 percent.  
15 (d) By May 2019, the federal Centers for Disease Control and  
16 Prevention reported 1,022 cases of the measles nationwide.  
17 Fifty-one of those incidences were in California.  
18 (e) For all but a small number of individuals, immunizations  
19 are safe and effective.  
20 (f) Effective immunizations not only protect immunized  
21 individuals from disease, but have the ability to provide indirect  
22 protection for which immunizations are not effective or safe. This  
23 indirect protection is called herd or community immunity.  
24 (g) Herd immunity successfully occurs if and when a sufficient  
25 portion of the community is immune. Herd immunity prevents  
26 sustained transmission of disease even when immunization  
27 coverage is below 100 percent.  
28 SEC. 2. Section 120370 of the Health and Safety Code is  
29 amended to read:  
30 120370. (a) (1) Prior to January 1, 2021, if the parent or  
31 guardian files with the governing authority a written statement by  
32 a licensed physician and surgeon to the effect that the physical  
33 condition of the child is such, or medical circumstances relating  
34 to the child are such, that immunization is not considered safe,  
35 indicating the specific nature and probable duration of the medical

1 condition or circumstances, including, but not limited to, family  
2 medical history, for which the physician and surgeon does not  
3 recommend immunization, that child shall be exempt from the  
4 requirements of this chapter, except for Section 120380, and  
5 exempt from Sections 120400, 120405, 120410, and 120415 to  
6 the extent indicated by the physician and surgeon's statement.

7 (2) Commencing January 1, 2021, an exemption issued before  
8 January 1, 2021, pursuant to this subdivision is valid only if the  
9 parent or guardian has complied with paragraph (2) of subdivision  
10 (c) of Section 120372.

11 (b) If there is good cause to believe that a child has been exposed  
12 to a disease listed in subdivision (b) of Section 120335 and the  
13 child's documentary proof of immunization status does not show  
14 proof of immunization against that disease, that child may be  
15 temporarily excluded from the school or institution until the local  
16 health officer is satisfied that the child is no longer at risk of  
17 developing or transmitting the disease.

18 SEC. 3. Section 120372 is added to the Health and Safety Code,  
19 to read:

20 120372. (a) (1) By January 1, 2021, the department shall  
21 develop and make available for use by licensed physicians and  
22 surgeons an electronic, standardized, statewide medical exemption  
23 certification form that shall be transmitted directly to the  
24 department's California Immunization Registry (CAIR) established  
25 pursuant to Section 120440. Pursuant to Section 120375, the form  
26 shall be printed, signed, and submitted directly to the school or  
27 institution at which the child will attend, submitted directly to the  
28 governing authority of the school or institution, or submitted to  
29 that governing authority through the CAIR where applicable.  
30 Notwithstanding Section 120370, commencing January 1, 2021,  
31 the standardized form shall be the only documentation of a medical  
32 exemption that the governing authority may accept, except as  
33 provided in paragraph (2) of subdivision (c).

34 (2) At a minimum, the form shall require all of the following  
35 information:

36 (A) The name, California medical license number, business  
37 address, and telephone number of the physician and surgeon who  
38 issued the medical exemption, and of the primary care physician  
39 of the child, if different from the physician and surgeon who issued  
40 the medical exemption.

1 (B) The name of the child for whom the exemption is sought,  
2 the name and address of the child's parent or guardian, and the  
3 name and address of the child's school or other institution.

4 (C) A statement certifying that the physician and surgeon has  
5 conducted a physical examination and evaluation of the child  
6 consistent with the relevant standard of care and complied with  
7 all applicable requirements of this section.

8 (D) Whether the physician and surgeon who issued the medical  
9 exemption is the child's primary care physician. If the issuing  
10 physician and surgeon is not the child's primary care physician  
11 and has not been treating the child for at least one year, the issuing  
12 physician and surgeon shall attest that the primary care physician  
13 has been contacted and advised of the submission of the medical  
14 exemption form. *physician, the issuing physician and surgeon*  
15 *shall also provide an explanation as to why the issuing physician*  
16 *and not the primary care physician is filling out the medical*  
17 *exemption form.*

18 (E) *How long the physician and surgeon has been treating the*  
19 *child.*

20 ~~(E)~~

21 (F) A description of the medical basis for which the exemption  
22 for each individual immunization is sought. Each specific  
23 immunization shall be listed separately and space on the form shall  
24 be provided to allow for the inclusion of descriptive information  
25 for each immunization for which the exemption is sought.

26 ~~(F)~~

27 (G) Whether the medical exemption is permanent or temporary,  
28 including the date upon which a temporary medical exemption  
29 will expire. A temporary exemption shall not exceed one year.

30 ~~(G)~~

31 (H) An authorization for the department to contact the issuing  
32 physician and surgeon for purposes of this section and for the  
33 release of records related to the medical exemption to the  
34 ~~department and the Medical department, the Medical Board of~~  
35 *California, and the Osteopathic Medical Board of California.*

36 ~~(H)~~

37 (I) A certification by the issuing physician and surgeon, under  
38 penalty of perjury, that the statements and information contained  
39 in the form are true, accurate, and complete.

1 (3) An issuing physician and surgeon shall not charge for either  
2 of the following:

3 (A) Filling out a medical exemption form pursuant to this  
4 section.

5 (B) ~~An~~ *A physical* examination related to the renewal of a  
6 temporary medical exemption.

7 (b) Commencing January 1, 2021, if a parent or guardian  
8 requests a licensed physician and surgeon to submit a medical  
9 exemption for the parent’s or guardian’s child, the physician and  
10 surgeon shall inform the parent or guardian of the requirements  
11 of this section. If the parent or guardian consents, the physician  
12 and surgeon shall examine the child and submit a completed  
13 medical exemption certification form to the department. A medical  
14 exemption certification form may be submitted to the department  
15 at any time.

16 (c) (1) By January 1, 2021, the department shall create a  
17 standardized system to monitor immunization levels in schools  
18 and institutions as specified in ~~Section~~ *Sections 120375 and*  
19 *120440*, and to monitor patterns of unusually high exemption form  
20 submissions by a particular physician and ~~surgeon or medical~~  
21 ~~practice.~~ *surgeon.*

22 (2) ~~(A)~~ If a medical exemption has been authorized pursuant  
23 to Section 120370 prior to the adoption of the statewide  
24 standardized form, a parent or guardian shall submit, by January  
25 1, 2021, a copy of the medical exemption to the department for  
26 inclusion in ~~the~~ *CAIR a state database* in order for the medical  
27 exemption to remain valid.

28 ~~(B)~~ If a local public health officer determines that a medical  
29 exemption granted prior to January 1, 2021, and submitted to the  
30 department pursuant to this paragraph is fraudulent or inconsistent  
31 with applicable federal Centers for Disease Control and Prevention  
32 (CDC), federal Advisory Committee on Immunization Practices  
33 (ACIP), or American Academy of Pediatrics (AAP) criteria for  
34 appropriate medical exemptions, the local health officer may  
35 provide the information to the State Public Health Officer. The  
36 State Public Health Officer may revoke the exemption upon the  
37 request of the local public health officer.

38 (d) (1) ~~The~~ *department* ~~department,~~ *at a minimum,* shall  
39 annually review immunization reports from all schools and  
40 institutions in order to identify medical exemption forms ~~subject~~

1 ~~to paragraph (2).~~ *submitted to the department pursuant to Section*  
2 *120370 and under this section that will be subject to paragraph*  
3 *(2).*

4 (2) A clinically trained immunization department staff member  
5 *member, who is either a physician and surgeon or a registered*  
6 *nurse, shall review all medical exemptions from either any of the*  
7 *following:*

8 (A) Schools or institutions subject to Section ~~120440~~ *with an*  
9 *120375 with an overall immunization rate of less than 95 percent.*

10 (B) Physicians and surgeons who have submitted five or more  
11 medical exemptions in a calendar year.

12 (C) *Schools or institutions subject to Section 120375 that do*  
13 *not provide reports of vaccination rates to the department.*

14 (3) (A) The department shall identify those medical exemption  
15 forms that do not meet applicable CDC, ACIP, or AAP criteria for  
16 appropriate medical exemptions. The department may contact the  
17 primary care physician and surgeon or issuing physician and  
18 surgeon to request additional information to support the medical  
19 exemption.

20 (B) Notwithstanding subparagraph (A), the department, based  
21 on the medical discretion of the clinically trained immunization  
22 staff member, may accept a medical exemption that is based on  
23 other contraindications or precautions, including consideration of  
24 family medical history, if the issuing physician and surgeon  
25 provides written documentation to support the medical exemption  
26 that is consistent with the relevant standard of care.

27 (C) A medical exemption that the reviewing immunization  
28 department staff member determines to be inappropriate or  
29 otherwise invalid under ~~subparagraph (A), and any medical~~  
30 ~~exemption accepted by the reviewing immunization department~~  
31 ~~staff member under subparagraph (B); subparagraphs (A) and (B)~~  
32 shall also be reviewed by the State Public Health Officer or a  
33 physician and surgeon from the department's immunization  
34 program designated by the State Public Health Officer. Pursuant  
35 to this review, the State Public Health Officer or physician and  
36 surgeon designee may ~~deny or revoke the medical exemption, as~~  
37 ~~applicable.~~ *revoke the medical exemption.*

38 (4) The department shall notify the *parent or guardian, issuing*  
39 *physician and surgeon, the school or institution, and the local*

1 public health officer with jurisdiction over the school or institution  
2 of a denial or revocation under this subdivision.

3 ~~(5) In the case of a medical exemption that is denied, revoked,~~  
4 ~~or pending appeal pursuant to Section 120372.05, a child shall~~  
5 ~~comply with the conditional admission schedule for immunizations~~  
6 ~~and continued attendance requirements specified in regulations~~  
7 ~~adopted pursuant to Section 120375.~~

8 *(5) If a medical exemption is revoked pursuant to this*  
9 *subdivision, the child shall continue in attendance. However, within*  
10 *30 calendar days of the revocation, the child shall commence the*  
11 *immunization schedule required for conditional admittance under*  
12 *Chapter 4 (commencing with Section 6000) of Division 1 of Title*  
13 *17 of the California Code of Regulations in order to remain in*  
14 *attendance, unless an appeal is filed pursuant to Section 120372.05*  
15 *within that 30-day time period, in which case the child shall*  
16 *continue in attendance and shall not be required to otherwise*  
17 *comply with immunization requirements unless and until the*  
18 *revocation is upheld on appeal.*

19 (6) (A) If the department determines that a ~~physician and~~  
20 ~~surgeon poses a risk to the public's health~~ *physician's and*  
21 *surgeon's practice is contributing to a public health risk* in one or  
22 more communities, the department *shall report the physician and*  
23 *surgeon to the Medical Board of California or the Osteopathic*  
24 *Medical Board of California, as appropriate. The department shall*  
25 not accept a medical exemption form from the physician and  
26 surgeon until the physician and surgeon demonstrates to the  
27 department that the *public health* risk no longer exists, but in no  
28 event shall the physician and surgeon be barred from submitting  
29 these forms for less than two years.

30 (B) If there is a pending accusation against a physician and  
31 surgeon with the Medical Board of California or the Osteopathic  
32 Medical Board of California relating to immunization standards  
33 of care, the department shall not accept a medical exemption form  
34 from the physician and surgeon unless and until the accusation is  
35 resolved in favor of the physician and surgeon.

36 (7) The department shall notify the Medical Board of California  
37 or the Osteopathic Medical Board of California, as appropriate, of  
38 any physician and surgeon who ~~submits a medical exemption form~~  
39 ~~that is denied or revoked pursuant to subparagraph (C) of paragraph~~  
40 ~~(3) or from whom the department shall not accept a medical~~

1 ~~exemption form pursuant to paragraph (6).~~ *has five or more medical*  
2 *exemption forms in a calendar year that are revoked pursuant to*  
3 *this subdivision.*

4 (8) Notwithstanding any other provision of this ~~subdivision,~~  
5 *section*, a clinically trained immunization program staff member  
6 *who is a physician and surgeon or a registered nurse* may review  
7 any exemption in the CAIR *or other state database* as necessary  
8 to protect public health.

9 (e) The department, the Medical Board of California, and the  
10 Osteopathic Medical Board of California shall enter into a  
11 memorandum of understanding or similar agreement to ensure  
12 compliance with the requirements of this section.

13 (f) In administering this section, the department and the  
14 independent expert review panel created pursuant to Section  
15 120372.05 shall comply with all applicable state and federal  
16 privacy and confidentiality laws, and may disclose information  
17 submitted in the medical exemption form in accordance with  
18 Section 120440.

19 ~~(g) Except as provided in paragraph (3) of subdivision (c), this~~  
20 ~~section does not require the department to review or approve a~~  
21 ~~medical exemption that is granted by a physician and surgeon~~  
22 ~~before January 1, 2021.~~

23 *(g) The department shall establish the process and guidelines*  
24 *for review of medical exemptions pursuant to this section. The*  
25 *department shall communicate the process to providers and post*  
26 *this information on the department's website.*

27 (h) If the department *or the California Health and Human*  
28 *Services Agency* determines that contracts are required to  
29 implement this section, the department may award these contracts  
30 on a single-source or sole-source basis. The contracts are not  
31 subject to Part 2 (commencing with Section 10100) of Division 2  
32 of the Public Contract Code.

33 (i) Notwithstanding the rulemaking provisions of the  
34 Administrative Procedure Act (Chapter 3.5 (commencing with  
35 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
36 Code), the department may implement and administer this section  
37 through provider bulletins, or similar instructions, without taking  
38 regulatory action.

39 *(j) For purposes of administering this section, the department*  
40 *and the California Health and Human Services Agency appeals*

1 *process shall be exempt from the rulemaking and administrative*  
2 *adjudication provisions in the Administrative Procedure Act*  
3 *Chapter 3.5 (commencing with Section 11340), and Chapter 4*  
4 *(commencing with Section 11370), Chapter 4.5 (commencing with*  
5 *11400), and Chapter 5 (commencing with Section 11500) of, Part*  
6 *1 of Division 3 of Title 2 of the Government Code.*

7 SEC. 4. Section 120372.05 is added to the Health and Safety  
8 Code, to read:

9 120372.05. (a) A medical exemption ~~denied or revoked~~  
10 ~~pursuant to subparagraph (B) of paragraph (2) of subdivision (e)~~  
11 ~~or subparagraph (C) of paragraph (3) of subdivision (d) of~~ *revoked*  
12 *pursuant to Section 120372 may be appealed by a parent or*  
13 *guardian to the Secretary of California Health and Human Services.*  
14 *Parents or guardians may provide necessary information to the*  
15 ~~independent expert review panel described in subdivision (b) for~~  
16 ~~purposes of the appeal.~~

17 (b) The secretary shall ~~appoint~~ *establish* an independent expert  
18 review panel, consisting of three licensed physicians and surgeons  
19 ~~who are primary care physicians or immunization experts,~~ *have*  
20 *relevant knowledge, training, and experience relating to primary*  
21 *care or immunization to review appeals. The agency shall establish*  
22 *the process and guidelines for the appeals process pursuant to this*  
23 *section. The agency shall post this information on the agency's*  
24 *internet website. The agency shall also establish requirements,*  
25 *including conflict-of-interest standards, consistent with the*  
26 *purposes of this chapter, that a physician and surgeon shall meet*  
27 *in order to qualify for appointment to to serve on the panel.*

28 (c) The independent expert review panel shall evaluate appeals  
29 consistent with *the* federal Centers for Disease Control and  
30 ~~Prevention and Prevention,~~ federal Advisory Committee on  
31 ~~Immunization Practices Practices,~~ *or American Academy of*  
32 *Pediatrics* guidelines ~~and~~ *or* the relevant standard of care, as  
33 applicable.

34 (d) The independent expert review panel shall submit its findings  
35 ~~and recommendations~~ *determination* to the secretary. ~~The~~  
36 ~~secretary's final decision shall be consistent with the findings of~~  
37 ~~the independent expert review panel, and is not subject to further~~  
38 ~~administrative review. The secretary shall adopt the determination~~  
39 ~~of the independent expert review panel and shall promptly issue~~

1 *a written decision to the child's parent or guardian. The decision*  
2 *shall not be subject to further administrative review.*

3 *(e) A child whose medical exemption revocation pursuant to*  
4 *subdivision (d) of Section 120372 is appealed under this section*  
5 *shall continue in attendance and shall not be required to commence*  
6 *the immunization required for conditional admittance under*  
7 *Chapter 4 (commencing with Section 6000) of Division 1 of Title*  
8 *17 of the California Code of Regulations, provided that the appeal*  
9 *is filed within 30 calendar days of revocation of the medical*  
10 *exemption.*

11 *(f) For purposes for administering this section, the department*  
12 *and the California Health and Human Services Agency appeals*  
13 *process shall be exempt from the rulemaking and administrative*  
14 *adjudication provisions in the Administrative Procedure Act*  
15 *Chapter 3.5 (commencing with Section 11340), and Chapter 4*  
16 *(commencing with Section 11370), Chapter 4.5 (commencing with*  
17 *11400), and Chapter 5 (commencing with Section 11500) of, Part*  
18 *1 of Division 3 of Title 2 of the Government Code.*

19 SEC. 5. Section 120375 of the Health and Safety Code is  
20 amended to read:

21 120375. (a) The governing authority of each school or  
22 institution included in Section 120335 shall require documentary  
23 proof of each entrant's immunization status. The governing  
24 authority shall record the immunizations of each new entrant in  
25 the entrant's permanent enrollment and scholarship record on a  
26 form provided by the department. The immunization record of  
27 each new entrant admitted conditionally shall be reviewed  
28 periodically by the governing authority to ensure that within the  
29 time periods designated by regulation of the department the entrant  
30 has been fully immunized against all of the diseases listed in  
31 Section 120335, and immunizations received after entry shall be  
32 added to the pupil's immunization record.

33 (b) The governing authority of each school or institution  
34 included in Section 120335 shall prohibit from further attendance  
35 any pupil admitted conditionally who failed to obtain the required  
36 immunizations within the time limits allowed in the regulations  
37 of the department until that pupil has been fully immunized against  
38 all of the diseases listed in Section 120335, unless the pupil is  
39 exempted under Section 120370 or 120372.

1 (c) The governing authority shall file ~~an annual written report~~  
2 *a written report, on at least an annual basis*, on the immunization  
3 status of new entrants to the school or institution under their  
4 jurisdiction with the department and the local health department  
5 on forms prescribed by the department. As provided in paragraph  
6 (4) of subdivision (a) of Section 49076 of the Education Code, the  
7 local health department shall have access to the complete health  
8 information as it relates to immunization of each student in the  
9 schools or other institutions listed in Section 120335 in order to  
10 determine immunization deficiencies.

11 (d) The governing authority shall cooperate with the county  
12 health officer in carrying out programs for the immunization of  
13 persons applying for admission to any school or institution under  
14 its jurisdiction. The governing board of any school district may  
15 use funds, property, and personnel of the district for that purpose.  
16 The governing authority of any school or other institution may  
17 permit any licensed physician or any qualified registered nurse to  
18 administer immunizing agents to any person seeking admission to  
19 any school or institution under its jurisdiction.

20 SEC. 6. Section 120440 of the Health and Safety Code is  
21 amended to read:

22 120440. (a) For the purposes of this chapter, the following  
23 definitions shall apply:

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

28 (2) “Schools, child care facilities, and family child care homes”  
29 means those institutions referred to in subdivision (b) of Section  
30 120335, regardless of whether they directly provide immunizations  
31 to patients or clients.

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

38 (4) “Health care plan” means a health care service plan as  
39 defined in subdivision (f) of Section 1345, a government-funded  
40 program the purpose of which is paying the costs of health care,

1 or an insurer as described in Sections 10123.5 and 10123.55 of  
2 the Insurance Code, regardless of whether the plan directly provides  
3 immunizations to patients or clients.

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

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

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

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

22 (A) Separately within their individual jurisdictions.

23 (B) Jointly among more than one jurisdiction.

24 (2) This subdivision does not preclude local health officers from  
25 sharing the information set forth in paragraphs (1) to (11),  
26 inclusive, of subdivision (c) with other health officers jointly  
27 operating the system.

28 (c) Notwithstanding Sections 49075 and 49076 of the Education  
29 Code, Chapter 5 (commencing with Section 10850) of Part 2 of  
30 Division 9 of the Welfare and Institutions Code, or any other  
31 provision of law, unless a refusal to permit recordsharing is made  
32 pursuant to subdivision (e), health care providers, and other  
33 agencies, including, but not limited to, schools, child care facilities,  
34 service providers for the California Special Supplemental Food  
35 Program for Women, Infants, and Children (WIC), health care  
36 plans, foster care agencies, and county welfare departments, may  
37 disclose the information set forth in paragraphs (1) to (11),  
38 inclusive, from the patient’s medical record, or the client’s record,  
39 to local health departments operating countywide or regional  
40 immunization information and reminder systems and the State

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

- 22 (1) The name of the patient or client and names of the parents  
23 or guardians of the patient or client.
- 24 (2) Date of birth of the patient or client.
- 25 (3) Types and dates of immunizations received by the patient  
26 or client.
- 27 (4) Manufacturer and lot number for each immunization  
28 received.
- 29 (5) Adverse reaction to immunizations received.
- 30 (6) Other nonmedical information necessary to establish the  
31 patient's or client's unique identity and record.
- 32 (7) Results of tuberculosis screening.
- 33 (8) Current address and telephone number of the patient or client  
34 and the parents or guardians of the patient or client.
- 35 (9) Patient's or client's gender.
- 36 (10) Patient's or client's place of birth.
- 37 (11) Patient's or client's information needed to comply with  
38 Chapter 1 (commencing with Section 120325), but excluding  
39 Section 120380.

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

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

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

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

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

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

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

39 (B) In the case of WIC service providers, to perform  
40 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 pursuant to  
37 this section 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 pursuant  
40 to this section or to receive immunization reminder notifications

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

18 SEC. 7. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.

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