

AMENDED IN ASSEMBLY MARCH 24, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1797

Introduced by Assembly Member Akilah Weber
(Principal coauthor: Senator Pan)
(Coauthors: Assembly Members Low and Wicks)
(Coauthors: Senators Newman and Wiener)

February 7, 2022

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1797, as amended, Akilah Weber. Immunization registry.

Existing law authorizes local health officers and the State Department of Public Health to operate immunization information systems. Existing law, except as provided, authorizes health care providers and other agencies, including, among others, schools, childcare facilities, family childcare homes, and county human services agencies, to disclose specified immunization information with local health departments and the State Department of Public Health, and authorizes local health departments and the department to disclose that same information to each other and to health care providers, schools, childcare facilities, family childcare homes, and county human services agencies, among others, as specified. Existing law specifies the immunization, patient, or client information that may be disclosed, which includes, among other things, patient or client demographic information, immunization data, adverse reactions to the immunization, or other information needed to identify the patient or client or to comply with other laws.

This bill would instead require health care providers and other agencies, including schools, childcare facilities, family childcare homes, and county human services agencies to disclose the specified immunization information, and would add the patient’s or client’s race or ethnicity to the list of information that shall or may be disclosed. By imposing new duties on schools and county human services agencies, the bill would impose a state-mandated local program.

Existing law requires schools, childcare facilities, family childcare homes, and county human services agencies to maintain the confidentiality of the specified immunization information and to only use the information for specified purposes, including to carry out their responsibilities regarding required immunization for attendance or participation benefits, or both.

This bill would additionally authorize schools, childcare facilities, family childcare homes, and county human services agencies to use the specified immunization information, in the event of a public health emergency, to perform immunization status assessments of pupils, adults, and clients to ensure health and safety.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law authorizes local health officers to operate immunization information systems, and authorizes health care providers and other agencies to share immunization information with local health departments and the State Department of Public Health, except as specified.~~

~~This bill would state the intent of the Legislature to enact legislation relating to immunization registry.~~

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

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

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

1 120440. (a) For the purposes of this chapter, the following
2 definitions shall apply:

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

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

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

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

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

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

30 (7) “Tuberculosis screening” means an approved intradermal
31 tuberculin test or any other test for tuberculosis infection that is
32 recommended by the federal Centers for Disease Control and
33 Prevention and licensed by the federal Food and Drug
34 Administration.

35 (b) (1) Local health officers may operate immunization
36 information systems pursuant to their authority under Section
37 120175, in conjunction with the Immunization Branch of the State
38 Department of Public Health. Local health officers and the State
39 Department of Public Health may operate these systems in either
40 or both of the following manners:

1 (A) Separately within their individual jurisdictions.

2 (B) Jointly among more than one jurisdiction.

3 (2) This subdivision does not preclude local health officers from
4 sharing the information set forth in paragraphs (1) to ~~(11)~~, (12),
5 inclusive, of subdivision (c) with other health officers jointly
6 operating the system.

7 (c) Notwithstanding Sections 49075 and 49076 of the Education
8 Code, Chapter 5 (commencing with Section 10850) of Part 2 of
9 Division 9 of the Welfare and Institutions Code, or any other
10 provision of law, unless a refusal to permit recordsharing is made
11 pursuant to subdivision (e), health care providers, and other
12 agencies, including, but not limited to, schools, ~~child-care~~ *childcare*
13 facilities, service providers for the California Special Supplemental
14 Food Program for Women, Infants, and Children (WIC), health
15 care plans, foster care agencies, and county ~~welfare departments~~,
16 ~~may~~ *human services agencies*, shall disclose the information set
17 forth in paragraphs (1) to ~~(11)~~, (12), inclusive, from the patient's
18 medical record, or the client's record, to local health departments
19 operating countywide or regional immunization information and
20 reminder systems and the State Department of Public Health. Local
21 health departments and the State Department of Public Health may
22 disclose the information set forth in paragraphs (1) to ~~(11)~~, (12),
23 inclusive, to each other and, upon a request for information
24 pertaining to a specific person, to health care providers taking care
25 of the patient and to the Medical Board of California and the
26 Osteopathic Medical Board of California. Local health departments
27 and the State Department of Public Health may disclose the
28 information in paragraphs (1) to (7), inclusive, and paragraphs (9)
29 to ~~(11)~~, (12), inclusive, to schools, ~~child-care~~ *childcare* facilities,
30 county ~~welfare departments~~, *human services agencies*, and family
31 ~~child-care~~ *childcare* homes to which the person is being admitted
32 or in attendance, foster care agencies in assessing and providing
33 medical care for children in foster care, and WIC service providers
34 providing services to the person, health care plans arranging for
35 immunization services for the patient, and county ~~welfare~~
36 ~~departments~~ *human services agencies* assessing immunization
37 histories of dependents of CalWORKs participants, upon request
38 for information pertaining to a specific person. Determination of
39 benefits based upon immunization of a dependent CalWORKs
40 participant shall be made pursuant to Section 11265.8 of the

1 Welfare and Institutions Code. The following information shall
2 be subject to this subdivision:

3 (1) The name of the patient or client and names of the parents
4 or guardians of the patient or client.

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

6 (3) Types and dates of immunizations received by the patient
7 or client.

8 (4) Manufacturer and lot number for each immunization
9 received.

10 (5) Adverse reaction to immunizations received.

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

13 (7) Results of tuberculosis screening.

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

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

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

18 (11) *Patient's or client's race or ethnicity.*

19 ~~(11) Patient's~~

20 (12) *Patient's or client's information needed to comply with*
21 *Chapter 1 (commencing with Section 120325), but excluding*
22 *Section 120380.*

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

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

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

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

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

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

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

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

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

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

36 (E) *In the case of schools, childcare facilities, family childcare*
37 *homes, and county human services agencies, in the event of a*
38 *public health emergency, to perform immunization status*
39 *assessments of pupils, adults, and clients to ensure health and*
40 *safety.*

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

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

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

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

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

39 (f) (1) The health care provider administering the immunization
40 or tuberculosis screening and any other agency possessing any

1 patient or client information listed in subdivision (c), may inform
2 the patient or client, or the parent or guardian of the patient or
3 client, by ordinary mail, of the information in paragraphs (1) to
4 (4), inclusive, of subdivision (e). The mailing shall include a
5 reasonable means for refusal, such as a return form or contact
6 telephone number.

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

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

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

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

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

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

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

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

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

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

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

22 (1) Providing department records containing information about
23 publicly funded immunizations.

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

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

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

10 *SEC. 2. If the Commission on State Mandates determines that*
11 *this act contains costs mandated by the state, reimbursement to*
12 *local agencies and school districts for those costs shall be made*
13 *pursuant to Part 7 (commencing with Section 17500) of Division*
14 *4 of Title 2 of the Government Code.*

15 ~~SECTION 1. It is the intent of the Legislature to enact~~
16 ~~legislation relating to immunization registry.~~