
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: AB 1797
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Fiscal: Yes

Subject: Immunization registry

SUMMARY

This bill requires, rather than permits, health care providers and schools, child care facilities, family child care homes, Women, Infants and Children (WIC) program service providers, county welfare departments, foster care agencies, and health care plans that have access to immunization information to disclose certain information from a patient medical record or a client record to the California Department of Public Health and local health departments. This bill temporarily authorizes individual immunization information to be used by health care providers and schools, child care facilities, family child care homes, WIC service providers, county welfare departments, foster care agencies, and health care plans to perform immunization status assessments.

BACKGROUND

Existing law:

- 1) Authorizes local health officers to operate immunization information systems in conjunction with the Immunization Branch of the California Department of Public Health (CDPH) either separately within their individual jurisdictions or jointly among more than one jurisdiction. The largest regional registry is referred to as the California Immunization Registry or "CAIR2." (Health and Safety Code § 120440(b))
- 2) Authorizes health care providers and specified agencies (such as schools, childcare facilities, and human services agencies), unless a refusal to permit record sharing is made, *to disclose* the information specified in # 5 below from the patient's medical record, or the client's record, *to local health departments and CDPH*. (Health and Safety Code § 120440(c))
- 3) Authorizes local health departments and CDPH to disclose this information to each other and, upon a request for information pertaining to a specific person, to health care providers taking care of the patient, the Medical Board of California, and the Osteopathic Medical Board of California. (Health and Safety Code § 120440(c))
- 4) Authorizes *local health departments and CDPH to disclose* this information *to schools, childcare facilities*, county human services agencies, family childcare homes, foster care agencies, California Special Supplemental Food Program for WIC service providers, and health plans, as specified. (Health and Safety Code

§ 120440(c))

- 5) Requires information included in the immunization information systems (such as CAIR2) to include:
 - a) The name of the patient/client and names of the parents/guardians of the patient/client and their current address and telephone number.
 - b) Types and dates of immunizations received by the patient/client.
 - c) Manufacturer and lot number for each immunization received.
 - d) Adverse reaction to immunizations received.
 - e) Non-medical information necessary to establish the patient's/client's unique identity and record, including their gender, date of birth, place of birth, and information needed to comply with California's immunization mandates.
 - f) Results of tuberculosis screening. (Health and Safety Code § 120440(c))
- 6) Requires health care providers, local health departments, and CDPH to maintain the confidentiality of this information in the same manner as other medical record information with patient identification they possess, and subjects health care providers, local health departments, CDPH, and contracting agencies are subject to civil action and criminal penalties for the wrongful disclosure of this information. (Health and Safety Code § 120440(d)(1))
- 7) Requires health care providers, local health departments, and CDPH to use this information *only* for the following specified purposes:
 - a) To provide immunization services.
 - 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, as specified. (Health and Safety Code § 120440(d)(1))
- 8) Requires schools, childcare facilities, family childcare homes, WIC service providers, foster care agencies, county human services agencies, and health care plans to maintain the confidentiality of this information in the same manner as other clients, patients, and student information they possess. This bill subjects these institutions and providers to civil action and criminal penalties for the wrongful disclosure of the information. (Health and Safety Code § 120440(d)(2))
- 9) Requires schools, childcare facilities, family childcare homes, WIC service providers, foster care agencies, county human services agencies, and health

care plans to use the information *only* for the following purposes:

- a) In the case of schools, childcare facilities, family childcare homes, and county human services agencies, to carry out their responsibilities regarding required immunization for attendance or participation benefits, or both.
 - b) In the case of WIC service providers, to perform immunization status assessments of clients and to refer those clients found to be due or overdue for immunizations to health care providers.
 - c) In the case of health plans, to facilitate payments to health care providers, to assess the immunization status of their clients, and to tabulate statistical information on the immunization status of groups of patients, without including patient-identifying information in these tabulations.
 - d) In the case of foster care agencies, to perform immunization status assessments of foster children and to assist those foster children found to be due or overdue for immunization in obtaining immunizations from health care providers. (Health and Safety Code § 120440(d)(2))
- 10) Authorizes a patient or their parent or guardian to refuse to permit record sharing, and requires the health care provider administering an immunization and any other agency possessing any patient/client information, if planning to provide patient or client information to an immunization system, to inform the patient/client or their parent or guardian, of the following information:
- a) The information listed in # 5 above may be shared with local health departments and CDPH.
 - b) Any information shared with local health departments or CDPH will be treated as confidential medical information and will be used only to share with each other, and, upon request, with health care providers, schools, child care facilities, family child care homes, WIC service providers, county welfare departments, foster care agencies, and health care plans (all are required to treat that information confidential).
 - c) The patient/client, or their parent/guardian has the right to examine any immunization-related information or tuberculosis screening results shared to correct any errors.
 - d) The patient/client, or their parent/guardian, may refuse to allow this information to be shared or to receive immunization reminder notifications at any time, or both. After refusal, the patient's/client's physician may maintain access to this information for the purposes of patient care or protecting public health. After refusal, local health departments and CDPH may maintain access to this information for the purpose of protecting public health. (Health and Safety Code § 120440(e))

- e) Prohibits this information from being shared if a patient/client, or their parent/guardian, refuses to allow the sharing of immunization information. (Health and Safety Code § 120440(I))

ANALYSIS

This bill requires, rather than permits, health care providers and schools, child care facilities, family child care homes, WIC service providers, county welfare departments, foster care agencies, and health care plans that have access to immunization information to disclose certain information from a patient medical record or a client record to the CDPH and local health departments. This bill temporarily authorizes individual immunization information to be used by health care providers and schools, child care facilities, family child care homes, WIC service providers, county welfare departments, foster care agencies, and health care plans to perform immunization status assessments. Specifically, this bill:

- 1) Requires, rather than authorizes, health care providers and schools, child care facilities, family child care homes, WIC service providers, county welfare departments, foster care agencies, and health care plans that have access to immunization information to disclose certain information from a patient medical record or a client record to local health departments and CDPH.
- 2) Adds, until January 1, 2026, the following to the purposes for which immunization information may be used by health care providers, schools, child care facilities, family child care homes, WIC service providers, county welfare departments, foster care agencies, and health care plans:
 - a) In the case of schools, childcare facilities, family childcare homes, and county human services agencies, *for the COVID-19 public health emergency*, to perform immunization status assessments of students, adults, and clients to ensure health and safety.
 - b) Provides that, in the case of schools, a) only applies if the school's governing board or body has adopted a policy mandating COVID-19 immunization for school attendance and the school limits the use of the data to verifying immunization status for this purpose.
- 3) Adds "patient's or client's race or ethnicity" to the list of information collected for purposes of local/regional immunization information and reminder systems and CAIR2.

STAFF COMMENTS

- 1) *Need for the bill.* According to the author, "Although, the CAIR2 system is an established tool to help schools and public health officials enforce and target safety measures, such as increasing vaccine rates, the limits of current law didn't allow school districts to assess a student's vaccination status against COVID-19. The ability for schools to have access to this information during a public health crisis would have been helpful during the COVID-19 pandemic to keep schools open and safe."

“Authorized pediatric and family practice physicians and public health departments are already permitted but not required to enter immunization data under current law. This presents potential gaps in accurate data. Lastly, race and ethnicity data fields are not required and puts public health officials at a disadvantage in targeting resources to the communities who need them the most.”

- 2) *CAIR2*. As noted in the Senate Health Committee analysis, CAIR2 is a confidential, statewide immunization information system for California residents. The CAIR2 system consists of 8 regions: Northern California, Greater Sacramento Area, Bay Area, Central Valley, Central Cost, Los Angeles-Orange, Inland Empire, Imperial, and San Diego). According to CDPH, the registry is accessed online to help health care providers and other authorized users track patient immunization records, reduce missed opportunities, and help fully immunize Californians of all ages. California law allows health care providers to share patient immunization information with an immunization registry as long as the patient (or their parent or legal guardian) is informed about the registry. Patients also have the right to “lock” the record in CAIR2, so that immunization information is only visible to the patient's provider. Participation in CAIR2 is voluntary and is open to health care providers, schools, childcare facilities, county welfare departments, family childcare homes, foster care agencies, WIC service providers, and health care plans. To participate, an organization must enroll in CAIR2 and agree to maintain the confidentiality of the patient immunization information and only use the information to provide patient care or to confirm that childcare or school immunization requirements have been met. Health care providers and other authorized users can access patient immunization information, determine if any vaccinations are due, enter new patients or vaccine doses administered, remind or recall patients due for immunizations, and run patient reports. RIDE is California's only other immunization registry, which serves a similar function in the Central Valley counties of San Joaquin, Stanislaus, Merced, Amador, Calaveras, Alpine, Tuolumne, and Mariposa.
- 3) *Immunization registry information*. Existing law allows patients, or their parents/guardians, to “lock” the patient's record in CAIR2 so that immunization information is not shared with other CAIR2 users (though the data remains available to the patient's provider). Information in CAIR2 includes a child's name and birth date, mother's (or guardian's) name, and information about the child's immunizations. Only a child's doctor can access a child's address and phone number; schools and other programs serving the child cannot see addresses or phone numbers in CAIR2. This bill adds a patient's or client's race or ethnicity to the information included in the system. While this bill broadens the information to be collected and maintained, it is limited in scope and existing confidentiality requirements remain; concerns about privacy, that information remains even after “locked,” and the use of information about people who may be undocumented are largely based on current law.
- 4) *Immunization status assessments during COVID*. This bill allows schools, child care facilities, family child care homes, WIC service providers, county welfare

departments, foster care agencies, and health care plans, for the COVID-19 public health emergency, to perform immunization status assessments of students, adults, and clients, to ensure health and safety during a public health emergency. This authority only applies to schools if the school's governing board or body has adopted a policy mandating COVID-19 immunization for school attendance and the school limits the use of the data to verify immunization status for this purpose (the assessment is a verification of a person's immunization status). This bill sunsets the authority to perform such immunization status assessments on January 1, 2026. While this bill broadens the authorized uses of immunization information, it is temporary and limited in scope and existing confidentiality requirements remain; concerns about privacy and the use of information about people who may be undocumented are largely based on current law.

- 5) *Senate Judiciary Committee comments.* This bill was triple referred, to the Senate Health Committee, Senate Education Committee, and Senate Judiciary Committee. Due to constrained legislative timelines, the referral to the Senate Judiciary Committee was rescinded. The following comments from that committee's staff are for consideration:

"This bill touches on various issues within the jurisdiction of the Senate Judiciary Committee, most prominently the issue of privacy. California's Constitution establishes that the right of privacy is inalienable. (Cal. Const., art. I, § 1.) As a practical matter, however, this right is not absolute; privacy concerns "must be balanced against other important interests." (*Hill v. National Collegiate Athletic Ass'n.* (1994) 7 Cal.4th 1, 37.) When a state action "primarily concerns health and safety, no fundamental right to privacy is at stake" and the action is reviewed under the rational basis standard with a presumption that there is no violation of privacy. (*Coshov v. City of Escondido* (2005) 132 Cal.App.4th 687, 711-712.)

"The author of this bill states that this bill will help prevent the spread of infectious diseases. To that end, this bill requires, rather than permits, health care providers and other entities to report vaccination information to the California Immunization Registry, adds race and ethnicity to the data that must be reported, and allowing schools, childcare facilities, and other stated entities to use vaccine data to perform COVID-19-related assessments, as specified. These steps appear rationally related to the state's interest in preventing the spread of disease, particularly COVID-19.

"Regarding individuals' interest in keeping their immunization and personal information private outside of the designated uses, existing law provides protections. The existing statute already provides that all information in the registry is confidential and cannot be used except for stated purposes. The information is also likely protected by at least two provisions in the Public Records Act. (See Gov. Code, § 6254(c), (k).) The bill permits an individual to opt out of having their records shared at all, which would provide additional assurance that multiple sources do not have possession of their personal and medical information."

- 6) *Heard by Senate Health Committee.* This bill passed the Senate Health Committee on June 22, on an 8-1 vote.
- 7) *Fiscal impact.* According to the Assembly Appropriations Committee, this bill would impose the following costs:
- a) CDPH estimates General Fund (GF) costs to implement this bill are: \$317,000 in fiscal year (FY) 2022-23, \$633,000 in FY 2023-24 and \$303,000 in FY 2024-25 and ongoing. These costs are for information technology technicians and health educators to support increased enrollment of providers, schools, childcare facilities, and human services agencies in CAIR2.
 - b) Unknown costs, possibly in the hundreds of thousands of dollars in total (GF) to local school districts, health departments, and other entities to disclose immunization information to local health departments and DPH. Large school districts could incur significant costs. These costs are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates.
- 8) *Related legislation.* SB 1479 (Pan) a) requires CDPH to coordinate COVID-19 testing programs in local educational agencies (LEAs) funded by federal resources or organized under the California COVID-19 Testing Task Force; b) requires CDPH to provide supportive services, as specified, related to LEA testing plans and testing programs for teachers, staff, students, and surrounding communities that help LEAs reopen and operate safely for in-person learning; and c) requires schools to create a COVID-19 testing plan consistent with CDPH guidance, as specified. SB 1479 is pending in the Assembly Education Committee.

SB 871 (Pan) would have added the COVID-19 vaccine to the list of immunizations required as a condition of school attendance. SB 871 was not heard.

SB 866 (Weiner) authorizes but does not require, a minor 15 years of age or older to consent to receive a federally-approved vaccine without parental consent. SB 866 is pending on the Assembly Floor.

SUPPORT

American Association of University Women - California
 Cal State Student Association
 California Competes: Higher Education for A Strong Economy
 California State Student Association
 Michelson Center for Public Policy
 Office of Lieutenant Governor Eleni Kounalakis
 Student Senate for California Community Colleges
 The Education Trust - West
 Tipping Point Community

University of California Student Association
Young Invincibles

OPPOSITION

Children's Health Defense California Chapter
Stand Up Sacramento County
Thirteen individuals

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