

No. 37. An act relating to reportable disease registries and data.

(H.98)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. chapter 4 is amended to read:

CHAPTER 4. CANCER REGISTRY

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§ 153. PARTICIPATION IN PROGRAM

(a) Any health care facility diagnosing or providing treatment to ~~cancer~~ patients with cancer shall report each case of cancer to the ~~commissioner~~ Commissioner or his or her authorized representative in a format prescribed by the ~~commissioner~~ Commissioner within ~~120~~ 180 days of admission or diagnosis. If the facility fails to report in a format prescribed by the ~~commissioner~~ Commissioner, the ~~commissioner's~~ Commissioner's authorized representative may enter the facility, obtain the information, and report it in the appropriate format. In these cases, the facility shall reimburse the ~~commissioner~~ Commissioner or the authorized representative for the cost of obtaining and reporting the information.

(b) Any health care provider diagnosing or providing treatment to ~~cancer~~ patients with cancer shall report each cancer case to the ~~commissioner~~ Commissioner or his or her authorized representative within ~~120~~ 180 days of diagnosis. Those cases diagnosed or treated at a Vermont facility or previously admitted to a Vermont facility for diagnosis or treatment of that instance of

cancer are exceptions and do not need to be reported by the health care provider.

(c) All health care facilities and health care providers who provide diagnostic or treatment services to patients with cancer shall report to the ~~commissioner~~ Commissioner any further demographic, diagnostic, or treatment information requested by the ~~commissioner~~ Commissioner concerning any person now or formerly receiving services, diagnosed as having or having had a malignant tumor. Additionally, the ~~commissioner~~ Commissioner or his or her authorized representative shall have physical access to all records ~~which~~ that would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified ~~cancer~~ patient with cancer. Willful failure to grant access to such records shall be punishable by a fine of up to \$500.00 for each day access is refused. Any fines collected pursuant to this subsection shall be deposited in the ~~general fund~~ General Fund.

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§ 155. DISCLOSURE

(a) The ~~commissioner~~ Commissioner may enter into agreements to exchange confidential information with other cancer registries in order to obtain complete reports of Vermont residents diagnosed or treated in other states and to provide information to other states regarding their residents diagnosed or treated in Vermont.

(b) The ~~commissioner~~ Commissioner may furnish confidential information to the National Breast and Cervical Cancer Early Detection Program, other states' cancer registries, federal cancer control agencies, or health researchers in order to collaborate in a national cancer registry or to collaborate in cancer control and prevention research studies. However, before releasing confidential information, the ~~commissioner~~ Commissioner shall first obtain from such state registries, agencies, or researchers an agreement in writing to keep the identifying information confidential and privileged. In the case of researchers, the ~~commissioner~~ Commissioner shall also first obtain evidence of the approval of their academic committee for the protection of human subjects established in accordance with ~~part 46 of Title 45 of the Code of Federal Regulations~~ 45 C.F.R. part 46.

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Sec. 2. 18 V.S.A. § 1001 is amended to read:

§ 1001. REPORTS TO COMMISSIONER OF HEALTH

(a) When a physician, health care provider, nurse practitioner, nurse, physician assistant, or school health official has reason to believe that a person is sick or has died of a diagnosed or suspected disease, identified by the Department of Health as a reportable disease and dangerous to the public health, or if a laboratory director has evidence of such sickness or disease, he or she shall transmit within 24 hours a report thereof and identify the name and address of the patient and the name of the patient's physician to the

Commissioner of Health or designee. In the case of the human immunodeficiency virus (HIV), “reason to believe” shall mean personal knowledge of a positive HIV test result. The Commissioner, with the approval of the Secretary of Human Services, shall by rule establish a list of those diseases dangerous to the public health that shall be reportable. Nonmedical community-based organizations shall be exempt from this reporting requirement. All information collected pursuant to this section and in support of investigations and studies undertaken by the ~~commissioner~~ Commissioner for the purpose of determining the nature or cause of any disease outbreak shall be privileged and confidential. The ~~Health~~ Department of Health shall, by rule, require that any person required to report under this section has in place a procedure that ensures confidentiality. ~~In addition, in relation to the reporting of HIV and the acquired immune deficiency syndrome (AIDS), the Health Department shall, by rule:~~

~~(1) develop procedures, in collaboration with individuals living with HIV or AIDS and with representatives of the Vermont AIDS service organizations, to ensure confidentiality of all information collected pursuant to this section; and~~

~~(2) develop procedures for backing up encrypted, individually identifying information, including procedures for storage, location, and transfer of data.~~

~~(b)(1) Public health records that relate to HIV or AIDS that contain any personally identifying information, or any information that may indirectly identify a person and was developed or acquired by state or local public health agencies, shall be confidential and shall only be disclosed following notice to the individual subject of the public health record or the individual's legal representative and pursuant to a written authorization voluntarily executed by the individual or the individual's legal representative. Except as provided in subdivision (2) of this subsection, notice and authorization is required prior to all disclosures, including disclosures to other states, the federal government, and other programs, departments, or agencies of state government.~~

~~(2) Notwithstanding the provisions of subdivision (1) of this subsection, disclosure without notification shall be permitted to other states' infectious disease surveillance programs for the sole purpose of comparing the details of case reports identified as possibly duplicative, provided such Public health records developed or acquired by State or local public health agencies that relate to HIV or AIDS and that contain either personally identifying information or information that may indirectly identify a person shall be confidential and only disclosed following notice to and written authorization from the individual subject of the public health record or the individual's legal representative. Notice otherwise required pursuant to this section shall not be required for disclosures to the federal government; other departments, agencies, or programs of the State; or other states' infectious disease~~

surveillance programs if the disclosure is for the purpose of comparing the details of potentially duplicative case reports, provided the information shall be shared using the least identifying information first so that the individual's name shall be used only as a last resort.

~~(c) A disclosure made pursuant to subsection (b) of this section shall include only the information necessary for the purpose for which the disclosure is made. The disclosure shall be made only on agreement that the information shall remain confidential and shall not be further disclosed without additional notice to the individual and written authorization by the individual subject as required by subsection (b) of this section. [Repealed.]~~

(d) A confidential public health record, including any information obtained pursuant to this section, shall not be:

- (1) disclosed or discoverable in any civil, criminal, administrative, or other proceeding;
- (2) used to determine issues relating to employment or insurance for any individual;
- (3) used for any purpose other than public health surveillance, and epidemiological follow-up.

(e) Any person who:

- (1) Willfully or maliciously discloses the content of any confidential public health record without written authorization or other than as authorized by law or in violation of subsection (b), (c), or (d) of this section shall be

subject to a civil penalty of not less than \$10,000.00 and not more than \$25,000.00, costs and attorney's fees as determined by the court, compensatory and punitive damages, or equitable relief, including restraint of prohibited acts, costs, reasonable attorney's fees, and other appropriate relief.

(2) Negligently discloses the content of any confidential public health record without written authorization or other than as authorized by law or in violation of subsection (b), (c), or (d) of this section shall be subject to a civil penalty in an amount not to exceed \$2,500.00 plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the confidential information.

(3) Willfully, maliciously, or negligently discloses the results of an HIV test to a third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply without written authorization or other than as authorized by law or in violation of subsection (b), (c), or (d) of this section and that results in economic, bodily, or psychological harm to the subject of the test is guilty of a misdemeanor, punishable by imprisonment for a period not to exceed one year or a fine not to exceed \$25,000.00, or both.

(4) Commits any act described in subdivision (1), (2), or (3) of this subsection shall be liable to the subject for all actual damages, including damages for any economic, bodily, or psychological harm that is a proximate result of the act. Each disclosure made in violation of this chapter is a separate

and actionable offense. Nothing in this section shall limit or expand the right of an injured subject to recover damages under any other applicable law.

~~(f) Except as provided in subdivision (a)(2) of this section, the Health Department is prohibited from collecting, processing, or storing any individually identifying information concerning HIV/AIDS on any networked computer or server, or any laptop computer or other portable electronic device. On rare occasion, not as common practice, the Department may accept HIV/AIDS individually identifying information electronically. Once that information is collected, the Department shall, in a timely manner, transfer the information in compliance with this subsection. [Repealed.]~~

(g) Health care providers must, prior to performing an HIV test, inform the individual to be tested that a positive result will require reporting of the result and the individual's name to the Department, and that there are testing sites that provide anonymous testing that are not required to report positive results. The Department shall develop and make widely available a model notification form.

(h) Nothing in this section shall affect the ongoing availability of anonymous testing for HIV. Anonymous HIV testing results shall not be required to be reported under this section.

~~(i) No later than November 1, 2007, the Health Department shall conduct an information and security audit in relation to the information collected pursuant to this section, including evaluation of the systems and procedures it~~

~~developed to implement this section and an examination of the adequacy of penalties for disclosure by state personnel. No later than January 15, 2008, the Department shall report to the Senate Committee on Health and Welfare and the House Committee on Human Services concerning options available, and the costs those options would be expected to entail, for maximizing protection of the information collected pursuant to this section. That report shall also include the Department's recommendations on whether the General Assembly should impose or enhance criminal penalties on health care providers for unauthorized disclosures of medical information. The Department shall solicit input from AIDS service organizations and the community advisory group regarding the success of the Department's security measures and their examination of the adequacy of penalties as they apply to HIV/AIDS and include this input in the report to the Legislature. The Department shall annually evaluate the systems and confidentiality procedures developed to implement networked and non-networked electronic reporting, including system breaches and penalties for disclosure to State personnel. The Department shall provide the results of this evaluation to and solicit input from the Vermont HIV/AIDS Community Advisory Group.~~

(j) ~~No later than January 1, 2008, the Department shall plan and commence a public campaign designed to educate the general public about the value of obtaining an HIV test. The Department shall collaborate with~~

community-based organizations to educate the public and health care providers about the benefits of HIV testing and the use of current testing technologies.

(k) The Commissioner shall maintain a separate database of reports received pursuant to subsection 1141(i) of this title for the purpose of tracking the number of tests performed pursuant to ~~subchapter 5 of chapter 21,~~ subchapter 5 of this title and ~~such~~ other information as the Department of Health ~~determines to be~~ finds necessary and appropriate. The database shall not include any information that personally identifies a patient.

Sec. 3. 18 V.S.A. § 1121(c) is amended to read:

(c)(1) To the extent permitted under 20 U.S.C. § 1232g (family educational and privacy rights), and any regulations adopted thereunder, all schools and child care facilities shall make publicly available the aggregated immunization rates of the student body for each required ~~vaccine~~ immunization using a standardized form that shall be created by the Department of Health. Each school and child care facility shall provide the information on the school and child care facility's aggregated immunization rate for each required immunization to students, or in the case of a minor to parents and guardians, at the start of each academic year and to any student, or in the case of a minor to the parent or guardian of any student, who transfers to the school or child care facility after the start of the academic year. A student attending a postsecondary school shall directly receive information on the school's

aggregated immunization rate at the start of the academic year or upon transfer to the school, regardless of whether the student is a minor.

(2) Each school and child care facility shall annually, on or before January 1, submit its standardized form containing the student body's aggregated immunization rates to the Department ~~of Health~~.

(3) Notwithstanding section 1120 of this title, ~~for the purposes of as~~ used in this subsection only, the term "child care facility" shall exclude a family day care home licensed or registered under 33 V.S.A. chapter 35.

Sec. 4. 18 V.S.A. § 1122 is amended to read:

§ 1122. EXEMPTIONS

(a) Notwithstanding subsections 1121(a) and (b) of this title, a person may remain in school or in ~~the~~ a child care facility without a required immunization:

(1) If the person or, in the case of a minor, the person's parent or guardian presents a form created by the ~~department~~ Department and signed by a licensed health care practitioner authorized to prescribe vaccines or a health clinic stating that the person is in the process of being immunized. The person may continue to attend school or ~~the~~ a child care facility for up to six months while the immunization process is being accomplished;

(2) If a licensed health care practitioner, ~~licensed to practice in Vermont~~ and who is authorized to prescribe vaccines, certifies in writing that a specific immunization is or may be detrimental to the person's health ~~or is not~~

~~appropriate, provided that when a particular vaccine is no longer~~
~~contraindicated, the person shall be required to receive the vaccine; or. A~~
certifying health care practitioner shall specify the required immunization in
question as well as the probable duration of the condition or circumstance that
is or may be detrimental to the person's health. Any exemption certified under
this subdivision shall terminate when the condition or circumstance cited no
longer applies.

(3) If the person or, in the case of a minor, the person's parent or guardian annually provides a signed statement to the school or child care facility on a form created by the ~~Vermont department of health~~ Department that the person, parent, or guardian:

(A) holds religious beliefs ~~or philosophical convictions~~ opposed to immunization; and

(B) has reviewed ~~and understands~~ evidence-based educational material provided by the ~~department of health~~ Department regarding immunizations, including:

(i) information about the risks of adverse reactions to immunization;

~~(C)~~ (ii) understands information that failure to complete the required vaccination schedule increases risk to the person and others of contracting or carrying a vaccine-preventable infectious disease; and

~~(D)(iii) understands~~ information that there are persons with special health needs attending schools and child care facilities who are unable to be vaccinated or who are at heightened risk of contracting a vaccine-preventable communicable disease and for whom such a disease could be life-threatening.

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(d) As used in this section, "health care practitioner" means a person licensed by law to provide professional health care services to an individual during the course of that individual's medical care or treatment.

Sec. 5. 18 V.S.A. § 1123 is amended to read:

§ 1123. IMMUNIZATION RULES AND REGULATIONS

The Department of ~~Health~~ shall adopt rules for administering this subchapter. Such rules shall be developed in consultation with the Agency of Education with respect to immunization requirements for Vermont schools, and in consultation with the Department for Children and Families with respect to immunization requirements for child care facilities. Such rules shall ~~establish~~ list which immunizations shall be required and the manner and frequency of their administration, and may provide for exemptions as authorized by this subchapter.

Sec. 6. 18 V.S.A. § 1124 is amended to read:

§ 1124. ACCESS TO AND REPORTING OF IMMUNIZATION RECORDS

(a) In addition to any data collected in accordance with the requirements of the Centers for Disease Control and Prevention, the ~~Vermont department of~~

~~health~~ Department shall annually collect from schools the immunization rates for at least those students in the first and eighth grades for each required vaccine. The data collected by the ~~department~~ Department shall include the number of medical, ~~philosophical~~, and religious exemptions filed for each required vaccine and the number of students with a provisional admittance.

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Sec. 7. 18 V.S.A. § 1125 is added to read:

§ 1125. QUALITY IMPROVEMENT MEASURES

The Department may implement quality improvement initiatives in any school that has a provisional admittance rate or an exemption rate above the State average.

Sec. 8. 18 V.S.A. § 1129 is amended to read:

§ 1129. IMMUNIZATION REGISTRY

(a) A health care provider shall report to the ~~department~~ Department all data regarding immunizations of adults and of children under ~~the age of~~ 18 years of age within seven days of the immunization, provided that required reporting of immunizations of adults shall commence within one month after the health care provider has established an electronic health records system and data interface pursuant to the e-health standards developed by the Vermont ~~information technology leaders~~ Information Technology Leaders. A health insurer shall report to the ~~department~~ Department all data regarding immunizations of adults and of children under ~~the age of~~ 18 years of age at

least quarterly. All data required pursuant to this subsection shall be reported in a ~~form~~ format required by the ~~department~~ Department.

(b) The ~~department~~ Department may use the data to create a registry of immunizations. Registry information shall remain confidential and privileged, except as provided in subsections (c) and (d) of this section. Registry information regarding a particular adult shall be provided, upon request, to the adult, the adult's health care provider, and the adult's health insurer. ~~A minor child's record also~~ Registry information regarding a particular minor child may be provided, upon request, to school nurses, or in the absence of a nurse on staff, administrators, and upon request and with written parental consent, to licensed day care providers, to document compliance with Vermont immunization laws. Registry information regarding a particular child shall be provided, upon request, ~~to the child after the child reaches the age of majority and to the~~ minor child's parent, or guardian, health insurer, and health care provider, or to the child after the child reaches the age of majority. ~~Registry information shall be kept confidential and privileged and may be shared only in summary, statistical, or other form in which particular individuals are not identified.~~

(c) The Department may exchange confidential registry information with the immunization registries of other states in order to obtain comprehensive immunization records.

(d) The Department may provide confidential registry information to health care provider networks serving Vermont patients and, with the approval of the Commissioner, to researchers who present evidence of approval from an institutional review board in accordance with 45 C.F.R. § 164.512.

(e) Prior to releasing confidential information pursuant to subsections (c) and (d) of this section, the Commissioner shall obtain from state registries, health care provider networks, and researchers a written agreement to keep any identifying information confidential and privileged.

(f) The Department may share registry information for public health purposes in summary, statistical, or other form in which particular individuals are not identified, except as provided in subsections (c) and (d) of this section.

(g) As used in this section, “administrator” means an individual licensed under 16 V.S.A. chapter 5, the majority of whose employed time in a public school, school district, or supervisory union is assigned to developing and managing school curriculum, evaluating and disciplining personnel, or supervising and managing a school system or school program.

“Administrator” also means an individual employed by an approved or recognized independent school, the majority of whose assigned time is devoted to those duties.

Sec. 9. 18 V.S.A. § 1131 is added to read:

§ 1131. VERMONT IMMUNIZATION ADVISORY COUNCIL

(a) Creation. There is created a Vermont Immunization Advisory Council for the purpose of providing education policy, medical, and epidemiological expertise and advice to the Department with regard to the safety of immunizations and immunization schedules.

(b) Membership. The Council shall be composed of the following members:

(1) a representative of the Vermont Board of Medical Practice, appointed by the Governor;

(2) the Secretaries of Human Services and of Education or their designees;

(3) the State epidemiologist;

(4) a practicing pediatrician, appointed by the Governor;

(5) a representative of both public and independent schools, appointed by the Governor; and

(6) any other persons deemed necessary by the Commissioner.

(c) Powers and duties. The Council shall:

(1) review and make recommendations regarding the State's immunization schedule for attendance in schools and child care facilities; and

(2) provide any other advice and expertise requested by the Commissioner.

(d) Assistance. The Council shall have the administrative, technical, and legal assistance of the Department.

(e) Meetings.

(1) The Council shall convene at the call of the Commissioner, but no less than once each year.

(2) The Council shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

Sec. 10. 18 V.S.A. § 1132 is added to read:

§ 1132. VACCINE ADVERSE EVENT REPORTING SYSTEM

A health care practitioner administering vaccinations shall report to the Vaccine Adverse Event Reporting System, in consultation with the patient, or if a minor, the patient's parent or guardian, all significant adverse events that occur after vaccination of adults and children, even if the practitioner is unsure whether a vaccine caused the adverse event.

Sec. 11. REPORT; MANDATORY IMMUNIZATION OF SCHOOL

PERSONNEL

(a) On or before January 15, 2016, the Department, in consultation with the Agency of Education, shall submit a report to the Senate Committee on Health and Welfare and the House Committee on Health Care assessing whether it is appropriate from a legal, policy, and medical perspective to require school

personnel to be immunized against those diseases addressed by the Department's list of required immunizations for school attendance.

(b) As used in this section, "school" means the same as in 18 V.S.A.

§ 1120.

Sec.12. EFFECTIVE DATES

(a) Except for Secs. 4 (exemptions) and 6 (access to and reporting of immunization records), this act shall take effect on July 1, 2015.

(b) Secs. 4 (exemptions) and 6 (access to and reporting of immunization records) shall take effect on July 1, 2016.

Date Governor signed bill: May 28, 2015