

Title 18: Health

Chapter 21: Communicable Diseases

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Subchapter 4: Immunization

§ 1120. Definitions

As used in this subchapter:

(1) "Child care facility" means a child care facility or family day care home licensed or registered under 33 V.S.A. chapter 35, unless exempted by rule adopted under section 1123 of this title.

(2) "School" means a public or independent prekindergarten, kindergarten, elementary, or secondary school, or any postsecondary school as defined in 16 V.S.A. § 176(b), unless exempted by rule adopted pursuant to section 1123 of this title.

§ 1121. Immunizations required prior to attending school and child care facilities

(a) No person may enroll as a student in a Vermont school, regardless of whether the student has been enrolled in the school during a previous school year, unless the appropriate school official has received a record or certificate of immunization issued by a licensed health care practitioner or a health clinic that the person has received required immunizations appropriate to age as specified by the Vermont Department of Health.

(b) No person may enroll or retain a child in a child care facility, regardless of whether the child has been enrolled in the facility during a previous year, unless the facility has received a record or certificate of immunization issued by a licensed health care practitioner or a health clinic that the child has received required immunizations in the prior 12-month period appropriate to age as specified by the Vermont Department of Health.

(c) 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 using a standardized form that shall be created by the Department of Health. 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. Notwithstanding section 1120 of this title, for the purposes of 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.

§ 1122. Exemptions

(a) Notwithstanding subsections 1121(a) and (b) of this title, a person may remain in school or in the 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 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 child care facility for up to six months while the immunization process is being accomplished;

(2) If a health care practitioner, licensed to practice in Vermont and 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

(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 that the person, parent, or guardian:

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

(B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations, including information about the risks of adverse reactions to immunization;

(C) understands 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) understands 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.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

(c) A form signed pursuant to subdivision (a)(3) of this section and the fact that such a form was signed shall not be:

(1) construed to create or deny civil liability for any person; or

(2) admissible as evidence in any civil proceeding.

§ 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 which immunizations shall be required and the manner and frequency of their administration, and may provide for exemptions as authorized by this subchapter.

§ 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 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 shall include the number of medical, philosophical, and religious exemptions filed for each required vaccine and the number of students with a provisional admittance.

(b) Appropriate health personnel, including school nurses, shall have access to immunization records of anyone enrolled in Vermont schools or child care facilities, when access is required in the performance of official duties related to the immunizations required by this subchapter. Access to student immunization records shall only be provided with the prior written consent of parents and students as required by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted thereunder.

§ 1125. Repealed. 1981, No. 18, § 6.

§ 1126. Noncompliance

The school board of each district, or the board of trustees of each independent school, or the chief executive officer of each postsecondary school, or the director of each child care facility shall exclude from school or a child care facility any person not otherwise exempted under this subchapter who fails to comply with its provisions. No person shall be excluded for failure to comply with the provisions of this subchapter unless there has been a notification by the appropriate school or child care facility authority to the person, or in the case of a minor to the person's parent or guardian of the noncompliance with this subsection, and of their rights under section 1122 of this title. In the event of exclusion, school officials or the director of the child care facility shall notify the department of health and contact the parents or guardians in an effort to secure compliance with the requirements of this subchapter so that the person may attend school or the child care facility.

§ 1127. Discrimination and testing prohibited

(a) No school district or educational institution shall request or require any applicant, prospective or current student to have an HIV-related blood test nor shall any school district or educational institution discriminate against an applicant, prospective or current student on the basis of a person's having a positive test result from an HIV-related blood test.

(b) A person aggrieved by a violation of this section or the attorney general on behalf of such a person may bring an action for injunctive relief and damages in the superior court of the county in which the violation is alleged to have occurred. The court may award costs and reasonable attorney's fees to an aggrieved person who prevails in an action brought under this subsection.

§ 1128. Access to health services and testing

(a) No health care provider or facility shall request or require any applicant for care or services or any client or patient to have an HIV-related blood test as a condition for receiving unrelated treatment or service nor shall any such provider or facility discriminate against any applicant, client, or patient on the basis of a person's having a positive test result from an HIV-related blood test. Nothing in this section shall preclude health care providers or facilities from recommending testing for medically appropriate diagnostic purposes or from administering to clients or patients who consent to have an HIV-related blood test.

(b) Failure of a health care provider to comply with any provision of this section shall constitute grounds for disciplinary action or any other regulatory action authorized by law. Failure of a health care facility to comply with any provision of this section shall constitute grounds for modification, suspension or revocation of the facility's license, authority to operate, or any other regulatory action authorized by law. Any such regulatory action shall be taken in accordance with the disciplinary, licensing, or other procedures established by law for the board or agency having jurisdiction over the health care provider or facility.

(c) A person aggrieved by a violation of this section or the attorney general on behalf of such a person may bring an action for injunctive relief and damages in the superior court of the county in which the violation is alleged to have occurred. The court may award costs and reasonable attorney's fees to an aggrieved person who prevails in an action brought under this subsection.

§ 1129. Immunization registry

(a) A health care provider shall report to the department all data regarding immunizations of adults and of children under the age of 18 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. A health insurer shall report to the department all data regarding immunizations of adults and of children under the age of 18 at least quarterly. All data required pursuant to this subsection shall be reported in a form required by the department.

(b) The department may use the data to create a registry of immunizations. 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 may be provided, upon request, to school nurses, 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 child's parent, guardian, health insurer, and health care provider. 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.

§ 1130. Immunization Funding

(a) As used in this section:

(1) "Health care facility" shall have the same meaning as in section 9402 of this title.

(2) "Health care professional" means an individual, partnership, corporation, facility, or institution licensed or certified or authorized by law to provide professional health care services.

(3) "Health insurer" shall have the same meaning as in section 9402 of this title, but does not apply to insurers providing coverage only for a specified disease or other limited benefit coverage.

(4) "Immunizations" means vaccines and the application of the vaccines as recommended by the practice guidelines for children and adults established by the Advisory Committee on Immunization Practices (ACIP) to the Centers for Disease Control and Prevention (CDC).

(5) "State health care programs" means any health care program providing immunizations with funds available through State and federal sources.

(6) "Covered lives" means the number of Vermont residents covered under a health insurance plan provided or administered by a health insurer.

(b)(1) The Department of Health shall administer an immunization program with the goals of ensuring universal access to vaccines for all Vermonters at no charge to the individual and reducing the cost at which the State may purchase vaccines. The Department shall purchase, provide for the distribution of, and monitor the use of vaccines as provided for in this subsection and subsection (c) of this section. The cost of the vaccines and an administrative surcharge shall be reimbursed by health insurers as provided for in subsections (e) and (f) of this section.

(2) The Department shall solicit, facilitate, and supervise the participation of health care professionals, health care facilities, and health insurers in the immunization program in order to accomplish the State's goal of universal access to immunizations at the lowest practicable cost to individuals, insurers, and State health care programs.

(3) The Department shall gather and analyze data regarding the immunization program for the purpose of ensuring its quality and maximizing protection of Vermonters against diseases preventable by vaccination.

(c) The immunization program shall purchase vaccines from the federal Centers for Disease Control and Prevention at the lowest available cost. The Department shall determine annually which vaccines for adults shall be purchased under the program.

(d) The immunization program shall provide for distribution of the vaccines to health care professionals and health care facilities for administration to patients.

(e) Health insurers shall remit to the Department the cost of vaccines, as established by the Commissioner of Health based on the recommendation of the Immunization Funding Advisory Committee established in subsection (g) of this section.

(f) The Department shall charge each health insurer a surcharge for the costs and administration of the immunization program. The surcharge shall be deposited into an existing special fund and used solely for the purpose of administering the program.

(g)(1) The Immunization Funding Advisory Committee is established to provide the Commissioner of Health with an annual per-member per-month cost for vaccines for the pediatric population, an annual per-member per-month cost for vaccines for the adult population, and a recommendation for the amount of the yearly vaccine assessment. The Committee shall comprise the following nine members:

(A) the Executive Officer of the Board of Pharmacy;

(B) the Executive Director of the Green Mountain Care Board;

(C) a representative of the Vermont Blueprint for Health, nominated by the Director of the Blueprint and appointed by the Commissioner of Health;

(D) three representatives of health insurers, one from each of the State's largest private health insurers, as determined by the number of covered lives, appointed by the Commissioner of Health;

(E) a representative of the American Academy of Pediatrics, Vermont chapter, appointed by the Commissioner of Health;

(F) a representative of the American Academy of Family Medicine, Vermont chapter, appointed by the Commissioner of Health; and

(G) a representative of employers that self-insure for health coverage, appointed by the Commissioner of Health.

(2) The Committee shall select a chair from among its members at the first meeting of each calendar year. The Committee shall receive administrative support from the Department of Health.

(3) By January 1 of each year, the Committee shall provide to the Commissioner the annual fiscal assessment and the per-member per-month cost for pediatric vaccines based on the total number of pediatric covered lives reported by health insurers and the per-member per-month cost for adult vaccines based on the total number of adult covered lives reported by health insurers.

(h) If federal purchase requirements do not further the goal of ensuring universal access to vaccines for all, the Commissioner may, following consultation with the Immunization Funding Advisory Committee, discontinue the program with six months' advance notice to all health care professionals and to all health insurers with Vermont covered lives.

(i) The Department may adopt rules under 3 V.S.A. chapter 25 to implement this section.

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