

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Establish the Vaccine Consumer Protection Program within the Department of Health and Human Services

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6353, sub-§3, as amended by PL 2001, c. 326, §1, is further amended to read:

3. Disease. "Disease" means those conditions that are preventable by immunizing agent,~~as specified in rules.~~

Sec. 2. 20-A MRSA §6355, sub-§2, as amended by PL 2001, c. 326, §2, is further amended to read:

2. Medical exemption. The parent or the child provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable as determined by the physician.

Sec. 3. 20-A MRSA §6357, sub-§2, as enacted by PL 1983, c. 661, §8 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

2. Annual report of immunization status. By December 15th of each year, each superintendent shall submit to the Director of the Bureau of Health, Department of Health and Human Services, and to the commissioner a summary report of immunization status of the children entering school,~~as prescribed by rule.~~

Sec. 4. 20-A MRSA §6358, as amended by PL 2001, c. 326, §3 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. 5. 20-A MRSA §6359, sub-§1, ¶C, as amended by PL 2001, c. 326, §4, is further amended to read:

C. "Disease" means those conditions that are preventable by immunizing agent,~~as specified in rules.~~

Sec. 6. 20-A MRSA §6359, sub-§2, as amended by PL 2001, c. 326, §5 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

2. Immunization. Except as otherwise provided under this section, every student ~~shall have~~must be administered an adequate dosage of an immunizing agent against each disease ~~as specified by rule.~~

Any such immunizing agent ~~shall~~must meet standards for the biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Health and Human Services.

Sec. 7. 20-A MRSA §6359, sub-§5, as enacted by PL 1985, c. 771, §§2 and 7, is amended to read:

5. Records; report. Each chief administrative officer shall keep uniform records of the immunizations and immunization status of each student, based on the certificate of immunization, other acceptable evidence and other available documents. The records ~~shall~~must be part of the student's permanent records.

By December 15th of each year, each chief administrative officer shall submit to the Director of the Bureau of Health a summary report of immunization status of the students entering school, ~~as prescribed by rule~~. A blank summary report form ~~will~~must be provided to each chief administrative officer by the Bureau of Health.

Sec. 8. 20-A MRSA §6359, sub-§6, as amended by PL 1991, c. 146, §4, is repealed.

Sec. 9. 22 MRSA §1067 is enacted to read:

§ 1067. Vaccine Consumer Protection Program

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Health care provider" means a physician, nurse, clinic, hospital or other entity licensed by this State to provide health care services that administers vaccines.
- B. "Office" means the Vaccine Consumer Protection Office established in this section.
- C. "Program" means the Vaccine Consumer Protection Program established in this section.
- D. "Vaccine injury table" means the vaccine injury table of covered vaccines and associated injuries established by 42 Code of Federal Regulations, Section 100.3 (2000).

2. Program and office established. The Vaccine Consumer Protection Program is established within the department. The Vaccine Consumer Protection Office is established within the department to carry out the purposes of the program.

3. Services. Under the program, the office shall provide information about vaccine injuries and immunizations to health care providers and the public.

The office shall establish and implement procedures to:

- A. Promote public awareness of the vaccine injury table through development and implementation of an educational outreach program that provides, at a minimum, the information contained in the vaccine injury table to any individual in the State who requests information related to vaccine injuries or immunizations;

B. Educate health care providers on the contents of the vaccine injury table to help providers better screen for and diagnose adverse events caused by vaccines;

C. Require health care providers to use vaccine package inserts that describe the warnings, precautions and adverse reactions potentially caused by a particular vaccine during the screening and diagnosing of an illness, disability, injury or adverse condition caused by vaccines;

D. Write and publicize a vaccine information statement. The statement must include evidence-based information about vaccines and their potentially adverse side effects, inform patients about their right to opt out of vaccine requirements based on religious and philosophical grounds and offer a step-by-step explanation about how to pursue legal recourse if an individual suspects a vaccine injury has occurred. When drafting the statement, the department shall consult with nationally recognized vaccine safety advocates and the families of children in the State who have been injured by vaccines;

E. Investigate potential vaccine injuries;

F. Evaluate vaccine injury claims;

G. Review instances of potential coercion by health care providers related to the issuance of a vaccine and require health care providers who are suspected of coercion to retract any inaccurate statements or face discipline by the applicable professional licensing entity;

H. Educate health care providers about the processes for handling vaccine injury claims that are brought against their practice;

I. Provide individuals with referrals to health care providers that treat vaccine injuries and to attorneys that handle claims related to vaccine injuries; and

J. Recoup funds that are spent on vaccine injury cases under the MaineCare program established under chapter 855.

4. Rules. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

5. Repeal. Upon the repeal of the National Childhood Vaccine Injury Act of 1986, 42 United States Code, Sections 300aa-1 to 300aa-34, the department shall submit legislation repealing this section.

Sec. 10. Reference manual. The Department of Health and Human Services shall add the vaccine injury table of covered vaccines and associated injuries established by 42 Code of Federal Regulations, Section 100.3 (2000) to the Maine Immunization Program's Provider Reference Manual created by the department's division of infectious disease within the Maine Center for Disease Control and Prevention.

SUMMARY

This bill establishes the Vaccine Consumer Protection Program within the Department of Health and Human Services and describes the services provided under the program. This bill also clarifies that a

medical exemption from immunization for the purposes of school attendance is to be determined by the child's physician. This bill also removes the Commissioner of Education and the Department of Health and Human Services rule-making authority regarding the statutory immunization provisions and school and municipal authority to have more stringent immunization requirements than state law.