

A Bill for an Act Relating to Immunization.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 325, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . IMMUNIZATION REGISTRY**

**§325-A Definitions.** As used in this part:

"Health care provider" means a program, agency, clinic, health care center, physician licensed under the provisions of chapter 453, advanced practice registered nurse recognized under the provisions of chapter 457, pharmacist licensed under the provisions of chapter 461, physician's assistant licensed under the provisions of chapter 453, or person authorized to practice medicine as a physician or physician's assistant, or nursing as an advanced practice registered nurse, in federal facilities located in the state, that administers immunizations in Hawaii.

"Post-secondary school" means any adult education school, business school, trade school, community college, college, or university enrolling or registering students above the age of compulsory attendance.

"Registry" means the Hawaii immunization registry.

"School" means any child care center, preschool, day care center, day nursery, head start program, group child care home, kindergarten, elementary, intermediate, middle, or secondary school that is responsible for ensuring student compliance with mandatory school immunization entrance requirements.

"Student" means any child or adult enrolled in any school or post-secondary school in the state.

**§325-B Hawaii immunization registry; establishment and purposes.** The department of health may establish and maintain an immunization information system to be designated as the Hawaii immunization registry. The purposes of the registry shall be to maintain a single statewide repository of immunization records to aid, coordinate, and help promote efficient and cost-effective screening, prevention, and control of vaccine-preventable diseases, including pandemic influenza.

**§325-C Confidentiality and content of registry records.** (a) All immunization records and reports made for the purposes of this part that directly or indirectly identify a person shall be kept confidential and shall not be disclosed by any person unless:

- (1) The person identified, the person's legal guardian, or in the case of a minor, the minor's parent or legal guardian consents;
- (2) Disclosure is deemed necessary by the director of health to carry out this chapter;
- (3) A court directs upon its determination that disclosure is necessary for the conduct of proceedings before it;
- (4) The disclosure is made between the person's health care provider and payor to obtain reimbursement for services rendered to the person; provided that disclosure shall be made only if the provider informs the person that a reimbursement claim will be made to the

person's payor, the person is afforded an opportunity to pay the reimbursement directly, and the person does not pay; or

- (5) The department of health releases aggregate immunization information that does not disclose any identifying information of persons whose information is maintained in the registry.

(b) Registry information shall be limited to patient name; demographic information, and contact information; information specific to immunizations or medications received by the patient, including types, manufacturers, lot numbers, expiration dates, anatomical sites of administration, routes of administration, vaccine information statement publication dates, doses, dates administered, and adverse reactions to immunizations or medications; and the name and contact information of the vaccination administrator or medication provider and the patient's health care provider.

(c) The department of health shall adopt measures to ensure the security of the registry to prevent unauthorized access to registry information.

**§325-D Purposes for access to registry information; access not a disclosure.** (a) Notwithstanding section 325-C, it shall not be a disclosure for the persons listed in subsections (b), (c), and (d) to have limited access to registry information for the purposes specified in each subsection.

(b) Registry information regarding specific individuals in the registry may be accessed by health care providers who are treating, have treated, or have been assigned to treat those individuals; by employees of these health care providers; and by authorized department of health personnel assigned to monitor the immunization or health status of those individuals for the purposes of:

- (1) Recording the administration of any vaccination, including pandemic influenza vaccine;
- (2) Determining the immunization history of a patient to deliver health care treatment accordingly;
- (3) Notifying individuals or parents or legal guardians of the need to schedule a visit for an immunization;
- (4) Generating official immunization records;
- (5) Ensuring compliance with mandatory immunization requirements; or
- (6) Recording the distribution of prophylactic and treatment medications administered or dispensed in preparation for and in response to a potentially catastrophic disease threat.

(c) Registry information regarding specific individuals in the registry may be accessed by school and post-secondary school personnel authorized by the director of health, the superintendent of education, or the administrator of a private or post-secondary school for the purpose of ensuring compliance with mandatory student immunization requirements.

(d) Registry information regarding specific individuals in the registry may be accessed by the department of health or agents of the department of health for the purposes of:

- (1) Ensuring compliance with mandatory immunization requirements;
- (2) Performing immunization-related quality improvement or quality assessment activities;
- (3) Complying with Hawaii vaccines for children and teen vaccination programs' vaccine accountability policies and procedures;
- (4) Producing aggregate immunization assessment reports to monitor and improve public health;
- (5) Supporting efforts to prevent and manage outbreaks of vaccine-preventable diseases, including pandemic influenza;

- (6) Assisting the department of health in the event of a public health emergency; or
- (7) Managing and maintaining the Hawaii immunization registry system.

(e) The use of registry information accessed pursuant to this section shall be limited to the purposes for which access is granted.

**§325-E Registry record requirements; duration of retention.** (a) The establishment of an individual's record in the registry shall not require the prior consent of a patient or the consent of a patient's parent or legal guardian in the case of a minor or dependent. The department of health shall make available to the patient or the patient's parent or legal guardian in the case of a minor or dependent, via the patient's health care provider or birthing hospital, a written description of the purpose and benefits of the registry as well as the procedure for refusing inclusion in the registry. No registry information shall be established in the registry for any patient who in writing refuses, or, in the case of a minor or dependent, the patient's parent or legal guardian who in writing refuses to allow the information to be included in the registry. Each health care provider or birthing hospital shall maintain the records of refusal of inclusion and shall report any refusal to the department of health in a manner specified by rule.

(b) Registry information for any individual included within the registry shall be retained as a part of the registry for twenty-five years after the last entry, except in the case of minors, whose records shall be retained during the period of minority plus twenty-five years after the minor reaches the age of majority. At the conclusion of the retention period, the data stored in the registry for that individual shall be archived.

**§325-F Civil and criminal liability.** (a) Authorized users of the registry shall not be subject to civil liability for damages by reason of:

- (1) Providing information to the registry in good faith; or
- (2) Accessing and using information from the registry in good faith for the purposes specified in section 325-D.

(b) Any person who intentionally or knowingly discloses registry information contrary to the confidentiality provisions of this part shall be guilty of a misdemeanor."

SECTION 2. Section 325-13, Hawaii Revised Statutes, is amended to read as follows:

**"§325-13 [Regulations.] Rules.** (a) For the purpose of carrying out this chapter, the director of health, with the approval of the governor, may [~~make such regulations~~] adopt, amend, or repeal such rules as the director deems necessary which, when adopted in accordance with [~~section 321-10,~~] chapter 91, shall have the force and effect of law.

(b) The rules shall be designed to:

- (1) Protect the health and safety of the public;
- (2) Establish appropriate levels of access to Hawaii immunization registry information by authorized users;
- (3) Establish data entry and reporting requirements for health care providers; and
- (4) Establish penalties for the failure to comply with any rule."

SECTION 3. In codifying the new sections in the new part added to chapter 325, Hawaii Revised Statutes, by section 1 of this Act, the revisor of

## **ACT 113**

statutes shall substitute appropriate section numbers for the letters used in designating and referring to the new sections in this Act.

**SECTION 4.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 5.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 6.** This Act shall take effect upon approval.

(Approved May 17, 2010.)