Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1797 (Akilah Weber) – As Amended March 24, 2022

SUBJECT: Immunization registry

SUMMARY: Requires health care providers and other agencies to disclose specified immunization information, and requires a patient's or client's race or ethnicity to be added to the list of information collected. Authorizes schools and childcare providers, among other agencies, to access immunization information to determine the immunization status of pupils, adults, and clients to ensure health and safety in the event of a public health emergency. Specifically, **this bill**:

1) Requires, instead of permits, a health care provider and other agencies, including, but not limited to, schools, childcare facilities, service providers for the California Special Supplemental Food Program for Women, Infants, and Children (WIC), health care plans, foster care agencies, and county human services agencies, to disclose certain information from a patient's medical record or the client's record, to local health departments (LHDs) operating countywide or regional immunization information and reminder systems and to the California Department of Public Health (CDPH).

2) Requires rather than authorizes a patient's or client's race or ethnicity to be included in the existing list of information that must be disclosed by health care providers and other agencies from a patient's or client's medical record for purposes of immunization information systems.

3) Expands the purposes for the use of information collected by and reported to immunization information systems, to include, in the case of school, childcare facilities, family childcare homes, and county human services agencies, in the event of a public health emergency, to perform immunization status assessment of pupils, adults, and clients to ensure health and safety.

4) Makes other technical and conforming changes.

EXISTING LAW:

1) Establishes the CDPH to protect and improve the health of communities through education, promotion of healthy lifestyles, and research for disease and injury prevention.

2) Requires the CDPH to establish a list of reportable diseases and conditions, and to specify the timeliness requirements related to the reporting of each disease and condition, the mechanisms required for, and the content to be included in the reporting. Permits the list to include communicable and noncommunicable diseases and to be modified at any time by the CDPH, after consultation with the California Conference of Local Health Officers.

3) Provides that each health officer knowing or having reason to believe that any case of the disease made reportable by regulation to the CDPH, or any other contagious, infectious, or communicable disease exists, or has recently existed, within the territory of jurisdiction, to take

measures as necessary to prevent the spread of the disease or occurrence of additional cases.

4) Establishes the Immunization Branch within the CDPH to provide leadership and support to public and private sector efforts to protect the population against vaccine-preventable diseases.

5) Permits local health offices (LHOs) to operate immunization information systems, in conjunction with the Immunization Branch at the CDPH.

6) Permits LHOs to operate immunization information systems in either or both of the following manners:

   a) Separately within their individual jurisdiction; and/or,

   b) Jointly among more than one jurisdiction.

7) Permits health care providers, and other agencies, including, but not limited to, schools, childcare facilities, service providers for the California Special Supplemental Food Program for WIC, health care plans, foster care agencies, and county welfare departments, to disclose the information in 8) below, from the patient's medical record, or the client's record, to LHDs operating countywide or regional immunization information and reminder systems and to DPH.

8) Specifies that the following information applies to 7) above:

   a) The name of the patient or client and names of the parents or guardians of the patient or client;

   b) Date of birth of the patient or client;

   c) Types and dates of immunizations received by the patient or client;

   d) Manufacturer and lot number for each immunization received;

   e) Adverse reaction to immunizations received;

   f) Other nonmedical information necessary to establish the patient's or client's unique identity and record;

   g) Results of tuberculosis screening;

   h) Current address and telephone number of the patient or client and the parents or guardians of the patient or client;

   i) Patient's or client's gender;

   j) Patient's or client's place of birth; and,

   k) Patient's or client's information needed to provide a means for the eventual achievement

of total immunization of appropriate age groups against specified contagious diseases.

9) Permits LHDs and the CDPH to disclose the information set forth in 8) above to each other and, upon a request for information pertaining to a specific person, to health care providers taking care of the patient and to the Medical Board of California (MBC) and the Osteopathic Medical Board of California (OMBC).

10) Permits LHDs and the CDPH to disclose the information in paragraphs 8) a) through g), and paragraphs 8) i) through k) to schools, childcare facilities, county welfare departments, and family childcare homes to which the person is being admitted or in attendance, foster care agencies in assessing and providing medical care for children in foster care, and WIC service providers providing services to the person, health care plans arranging for immunization services for the patient, and county welfare departments assessing immunization histories of dependents of the California Work Opportunity and Responsibility to Kids Program participants, upon request for information pertaining to a specific person.

11) Requires health care providers, LHDs, and the CDPH to maintain the confidentiality of information specified in 8) above in the same manner as any other medical record information with patient identification that they possess. Subjects to civil and criminal penalties those that violate the disclosure of information, as specified.

12) Specifies the authorized use of the information in 8) above, as follows:

    a) To provide immunization services to the patient or client, including issuing reminder notifications to patients or clients or their parents or guardians when immunizations are due;

    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 in California, without identifying information for these patients or clients included in these groups or populations; or,

    d) In the case of health care providers only, as authorized under the Confidentiality of Medical Information Act.

13) Specifies that schools, childcare facilities, family childcare homes, WIC service providers, foster care agencies, county welfare departments and health care service plans are to use the information for the purposes specified in 12) above, and as follows:

    a) In the case of schools, childcare facilities, family childcare homes, and county welfare departments, to carry out their responsibilities regarding required immunization for attendance or participation benefits, or both, as specified;

    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 care 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; and,

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.

14) Permits a patient or a patient's parent or guardian to refuse to permit record sharing.

15) Prohibits a public or private elementary or secondary school, childcare center, day nursery, nursery school, family daycare home, or developmental center from unconditionally admitting a child unless prior to their first admission they have been fully immunized, and requires that the following diseases must be documented:

a) Diphtheria;

b) Haemophilus influenzae type b;

c) Measles;

d) Mumps;

e) Pertussis (whooping cough);

f) Poliomyelitis;

g) Rubella;

h) Tetanus;

i) Hepatitis B;

j) Varicella (chickenpox); and,

k) Any other disease deemed appropriate by the CDPH, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. The author states, "The COVID-19 pandemic has demonstrated a strong need to ensure data systems are responsive and provide the necessary information to effectively reduce the spread of infectious diseases. During public health emergencies schools can be even more effective at keeping students, faculty, and staff safe by having the basic tools to check if students are vaccinated and that all families have access to vaccines. This information is already

collected and available in county and State data systems. AB 1797 would ensure that immunization information is available in the event of a public health emergency."

Vaccine registries. Immunization information systems, also known as "vaccine registries," are confidential, population based, computerized databases for storing vaccinations, including COVID-19 vaccination information. These systems help providers and other authorized users track patient immunization records, reduce missed vaccination opportunities, and help fully immunize populations. Having a consolidated immunization record in one place is especially helpful in a pandemic situation when people may receive first and second vaccine doses at different locations. All 50 states have immunization registries.

The California Immunization Registry (CAIR2) is a secure, web-based system available to healthcare providers, including LHDs, community clinics, private medical offices, hospitals, and other approved agencies, such as schools, childcare facilities, and foster care. CAIR2 aims to improve immunization services by providing a central location for healthcare providers and other approved entities to store and access a person's immunization history. This includes documenting one's complete immunization data and Tuberculosis test history; forecasting the immunizations that are due; generating official patient/student immunization documentation; and helping immunization providers manage their vaccine inventory, generating practice-level immunization reports, and conducting reminder/recall activities. This system plays an important role in immunization program management and implementation by improving the quality of immunization data and enhancing accountability and stewardship of public vaccine resources.

Access to vaccine registry information. California law allows health care providers to share patient immunization information with an immunization registry as long as the patient (or patient's parent) is informed about the registry, including their right to 'lock' the record in CAIR2 so that immunization information is not shared with other CAIR2 users (though the data remains available to the patient's provider). Participation in CAIR2 is voluntary and is open to healthcare providers, schools, childcare facilities, county welfare departments, family childcare homes, foster care agencies, WIC service providers, and health care plans. To participate, users must sign a confidentiality agreement stating that they will maintain the confidentiality of the patient immunization information and will only use the information to provide patient care or to confirm that childcare or school immunization requirements have been met. Information in CAIR2 includes a child's name and birth date, mother's (or guardian's) name, and information about the child's shots. 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.

Existing law also permits health care providers, and other agencies, including school, childcare facilities and county welfare agencies to disclose specified information from the patient's medical or client's records to LHDs operating countywide or regional immunization registries and DPH. This bill would make this type of disclosure a requirement. LHDs and DPH may also disclose specified information (except an individual's current address and telephone number) to each other, and upon request to health care providers taking care of the patient and to the Medical Board of California (MBC) and Osteopathic Medical Board of California (OMBC). Lastly, LHDs and DPH may disclose the information for determination of benefits, as specified. Health care providers, LHDs and DPH must maintain the confidentiality of the information. Health care providers administering immunization and other agencies possessing any patient or client information must inform the patient or their parent/guardian if they are planning to provide

patient/client information to an immunization system. A patient or the patient's parent/guardian may refuse to permit record sharing.

Accessing immunization during a public health emergency. This bill would authorize schools, childcare providers, and human services agencies to perform immunization status assessments of pupils, adults, and clients, to ensure health and safety during a public health emergency.

Public health emergencies can be declared at the federal, state, and local level. At the federal level, the Secretary of the Department of Health and Human Services (HHS) may, under section 319 of the Public Health Service Act, determine that either a disease or disorder presents a public health emergency; or that a public health emergency, including significant outbreaks of infectious disease or bioterrorist attacks.

At the state level, section 8558 of the Government Code, a "state of emergency" and "local emergency" includes conditions of disaster or extreme peril that affects the safety of individuals and includes conditions such as, but not limited to, air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, and plant or animal infestation or disease.

Health emergencies can also be established at the local level whenever a local director or health officer determines release or escape of an agent that is an immediate threat to the public health, such as any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent.

Many schools in California closed for in-person instruction as a result of COVID-19. On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of the COVID-19 virus. An Executive Order (EO) issued on March 13, 2020 authorized, but did not require, local educational agencies (LEAs) to close schools for in-person instruction as a result of the threat of COVID-19. The state subsequently began using a color-coded tiered system to determine when schools could reopen for in-person instruction. Except for LEAs located in the highest tier of virus spread, the decision regarding whether to close or re-open schools was left to each LEA, in consultation with local public health officials.

The vast majority of California public schools were closed for in-person instruction from March 2020 through the end of the 2019-20 school year, as well as for much of the 2020-21 school year. Students have largely returned to in-person instruction for the 2021-22 school yar.

Children in California are required to have certain immunizations to attend school. The Health and Safety Code prevents any private or public elementary or secondary school or childcare facility, from unconditionally admitting a child unless, they have been fully immunized against the following diseases: Diphtheria, Haemophilus influenzae type b, Measles, Mumps, Pertussis (whooping cough), Poliomyelitis, Rubella, Tetanus, Hepatitis B, Varicella (chickenpox), and any other disease deemed appropriate by the DPH, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians. Certain exceptions apply, including a pupil who is enrolled in an independent study program who does not receive classroom instruction.

Governor's vaccine mandate. In October 2021, the Governor announced plans to add the COVID-19 vaccine to the list of vaccinations required to attend school in-person when the

vaccine receives full approval from the U.S. Food and Drug Administration (FDA) for middle and high school grades with the goal to implement as early as January 2022. In April 2022, the COVID-19 vaccine requirements for schools was delayed until the 2023-24 school year. The CDPH stated that "the state will not initiate the regulatory progress for a COVID-19 vaccine requirement for the 2022-2023 school year and as such, any vaccine requirements would not take effect until after full FDA approval and no sooner than July 1, 2023." According to the CDPH, delayed implementation of the COVID-19 vaccine mandate is due to the FDA not fully approving COVID-19 vaccines for individuals within the 7-12 grade span.

Some California schools have implemented their own vaccine mandates. The San Diego Unified School District and the Los Angeles Unified School District became some of the largest schools districts in the nation to mandate COVID-19 vaccination requirements. Approximately 40 other school districts across California have adopted similar policies regarding vaccine mandates, including the Oakland Unified School District and Sacramento City Unified School District. (CalMatters, 2022). Although several school districts have adopted policies around required COVID-19 vaccinations, many have delayed implementation including the Los Angeles Unified School District, the West Contra Costa Unified School District, and the Oakland Unified School District citing low vaccination rates, overwhelmed independent study programs, and a lack of full FDA approval. As the COVID-19 vaccine is not currently required for school attendance, schools are unable to perform immunization status assessments of their pupils using the CAIR2 system.

Governor's Budget proposal. The Governor's 2022-23 Budget proposes $235.2 million and personnel for the CDPH to maintain and operate various technology platforms and applications necessary to support both COVID-19 response activities and other potential outbreaks, including the CAIR2 systems.

Arguments in support. ProtectUS states, "School closures have taken a huge mental health toll on students, teachers, and families throughout the COVID-19 pandemic. As the pandemic continues, it is imperative that we provide schools with the resources they need to remain open and safe. Currently, schools lack access to vital information regarding the vaccination needs of the students they serve. Without access to the existing California Immunization Registry, schools are unable to verify the vaccination status of students and identify who and where to target resources. This is especially concerning given the low vaccine rates amongst school-aged children eligible for the COVID-19 vaccine. As of February 2022, only a quarter of 5-11 year olds and less than two-thirds of 12- to 17-year-olds have been fully vaccinated in California. This is dangerously low, considering that experts estimate that we need 80-90% of the population immune to COVID-19 to reach herd immunity."

Arguments in opposition. Educate.Advocate. states, "Our families have concerns with the data breaching epidemic that plagues our world, our country as well as our state. These data breaches expose private records and state agencies have not been immune to this. Our families are not comfortable with these additional 'immunization status assessments' of those in schools, childcare facilities, family childcare homes as well as those who have services with county human services agencies with this information being inputted into a database that could easily be breached."

Recommended Committee Amendments. Committee staff recommend that the bill be amended as follows:

1) The authorization for schools, childcare facilities, family childcare homes, and county human services agencies to perform immunization status assessments, in the event of a public health emergency, be limited in the following ways:

    a) Applies only to the COVID-19 public health emergency;

    b) In the case of schools, limits this provision to those with a governing board or body adopted policy mandating COVID-19 immunization for school attendance, and limits their use of the data to verifying immunization status for this purpose;

    c) Adds a three-year sunset to this provision.

Related legislation. SB 871 (Pan) of the 2021-22 Session, among other provisions, would delete the requirement in current law that any immunization added to the list of mandatory immunizations for attendance at a school or childcare program added administratively, as deemed appropriate by the CDPH, allow for both medical and personal belief exemptions.

SB 1479 (Pan) of the 2021-22 Session would require the CDPH to continue administering COVID-19 testing programs in schools that are currently funded by federal resources and organized under the California COVID-19 Testing Task Force. Would require CDPH to administer testing programs for teachers, staff, and pupils that help schools reopen and keep them operating safely for in-person learning.

SB 866 (Wiener) of the 2021-22 Session would permit a minor 12 years of age or older to consent to a vaccine that is approved by the FDA and meets the recommendations of the Advisory Committee on Immunization Practices of the federal Centers for Disease Control and Prevention without the consent of the parent or guardian of the minor, and would authorize an authorized vaccine provider to administer the vaccines to the minor, as specified.

SB 277 (Pan), Chapter 35, Statutes of 2015, eliminates the personal belief exemption from the requirement that children receive specified vaccines for certain infectious diseases prior to being admitted to any public or private elementary or secondary school or day care center.

SB 2109 (Pan), Chapter 821, Statutes of 2012, requires, on and after January 1, 2014, a separate form prescribed by the CDPH to accompany a letter or affidavit to exempt a child from immunization requirements under existing law on the basis that an immunization is contrary to beliefs of the child's parent or guardian.

REGISTERED SUPPORT / OPPOSITION:

Support

California Immunization Coalition (co-sponsor)
Protect US (co-sponsor)
San Diego Unified School District (co-sponsor)
American Academy of Pediatrics, California
California Academy of Family Physicians

California Dental Association
California Medical Association
California School Nurses Organization
Los Angeles Unified School District
Sacramento City Unified School District
Teens for Vaccines INC.
3 Individuals

Opposition

California Health Coalition Advocacy
Children's Health Defense California Chapter
Educate. Advocate.
National Vaccine Information Center
Protection of the Educational Rights for Kids
Real Impact.
Stand Up Sacramento County
Voice for Choice Advocacy
Over 1,300 Individuals

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