
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2683 Session of
2018

INTRODUCED BY METCALFE, MILLARD, DIAMOND, RYAN, KEEFER, HELM AND
BARRAR, OCTOBER 1, 2018

REFERRED TO COMMITTEE ON HEALTH, OCTOBER 1, 2018

AN ACT

1 Providing for informed consent for vaccinations and for
2 penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Informed
7 Consent Protection Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Department." The Department of Health of the Commonwealth.

13 "Emergency medical services provider." As defined in 35
14 Pa.C.S. § 8103 (relating to definitions).

15 "Health care facility." As defined in section 402 of the act
16 of March 20, 2002 (P.L.154, No.13), known as the Medical Care
17 Availability and Reduction of Error (Mcare) Act.

18 "Health care practitioner." As defined in section 103 of the

1 act of July 19, 1979 (P.L.130, No.48), known as the Health Care
2 Facilities Act.

3 "Informed consent." The right of all people to be fully
4 informed about the risks and benefits of a medical intervention
5 and free to make a voluntary decision on that intervention
6 without being coerced, threatened or punished for the decision.

7 "License." A health care practitioner license issued by the
8 Department of State or a health care facility license issued by
9 the Department of Health.

10 Section 3. Vaccine nondiscrimination.

11 (a) Prohibition against discrimination.--A health care
12 practitioner or a health care facility may not discriminate
13 against a patient or parent or guardian of a patient based
14 solely upon a patient or parent or guardian of a patient
15 choosing to delay or decline a vaccination. Exercising the right
16 to informed consent by delaying or declining vaccinations under
17 this act may not be the reason for a patient or family member of
18 a patient to be dismissed from a practice or lose medical
19 privileges or benefits.

20 (b) Prohibition against harassment.--A health care
21 practitioner or health care facility shall not harass, coerce,
22 scold or threaten a patient or parent or guardian of a patient
23 for exercising the right to delay or decline a vaccination under
24 this act.

25 (c) Health insurer.--An insurer issuing any type of
26 insurance policy shall not deny coverage, increase a premium or
27 otherwise discriminate against an insured or applicant for
28 insurance based on the individual's choice to delay or decline a
29 vaccination for the individual or the individual's child.

30 Section 4. Prohibited activities.

1 (a) Limitation on payments.--A health care practitioner
2 shall not accept a monetary payment in the form of a bonus or
3 other incentive from an insurance company or pharmaceutical
4 company for patient vaccination.

5 (b) Requiring a waiver prohibited.--A health care
6 practitioner shall not require a patient or parent or guardian
7 of a patient to sign a liability waiver as a condition to
8 receive medical care in the event the patient or parent or
9 guardian of a patient chooses to delay or decline a vaccination.

10 (c) Investigations by child protective services.--Child
11 protective services shall not initiate an investigation against
12 a parent or guardian for the sole reason of a parent or guardian
13 choosing to delay or decline a vaccination for a child of the
14 parent or guardian under this act.

15 (d) Health care providers.--An insurer shall not deny a
16 health care practitioner's participation in an insurance plan or
17 decrease the practitioner's reimbursements through fines or
18 financial penalties due to low patient vaccination rates or due
19 to a practitioner's decision not to vaccinate a patient.

20 Section 5. Penalty.

21 For violations under sections 3 and 4, the appropriate board
22 or the department may:

23 (1) for a first violation, levy a fine in the amount of
24 \$1,000; or

25 (2) for a second or subsequent violation, refuse, revoke
26 or suspend the license of a health care practitioner or
27 health care facility.

28 Section 6. Rights of patients.

29 (a) Summary of rights.--The department shall publish on the
30 department's publicly accessible Internet website a summary of

1 the rights of a patient or parents or guardians of a patient
2 under section 3, in any format the health care provider or
3 health care facility chooses.

4 (b) Complaints.--A health care provider and health care
5 facility, if requested, shall inform patients of the address and
6 telephone number of each State agency responsible for responding
7 to patient complaints about a health care provider or health
8 care facility's alleged noncompliance with this act.

9 (c) Procedure for providing information on patient rights.--
10 A health care provider or facility shall adopt policies and
11 procedures to ensure that a patient and the parent or guardian
12 of a patient are provided the opportunity during the course of
13 admission to receive information regarding the rights contained
14 in section 3 and how to file complaints with the facility and
15 appropriate State agency.

16 (d) Fines.--The following shall apply:

17 (1) The department may levy the following fines for a
18 violation under this act:

19 (i) Not more than \$5,000 for an unintentional
20 violation.

21 (ii) Not more than \$25,000 for an intentional
22 violation, with each intentional violation constituting a
23 separate violation subject to a separate fine.

24 (2) The appropriate regulatory board or, if no board
25 exists, the department may impose an administrative fine
26 against a health care practitioner for failing to make
27 available to patients a summary of their rights under section
28 3 and the following shall apply:

29 (i) A health care provider's first violation under
30 this paragraph shall be subject to corrective action and

1 shall not be subject to an administrative fine if the
2 violation was unintentional.

3 (ii) The appropriate licensing board or the
4 department may levy a fine of not more than \$100 for a
5 second or subsequent unintentional violation under this
6 paragraph.

7 (iii) The appropriate licensing board or the
8 department may levy a fine of not more than \$500 for an
9 intentional violation under this paragraph, with each
10 intentional violation constituting a separate violation
11 subject to a separate fine.

12 (e) Determination of fine.--In determining the amount of
13 fine to be levied under subsection (d), the following factors
14 shall be considered:

15 (1) The scope and severity of the violation, including
16 the number of patients or parents or guardians of patients
17 found not to have received notice of a patient's rights under
18 section 3, and whether the failure to provide the information
19 to patients was willful.

20 (2) Actions taken by the health care provider or health
21 care facility to correct violations or to remedy complaints.

22 (3) Any previous violations under this act by a health
23 care provider or health care facility.

24 Section 7. Effective date.

25 This act shall take effect immediately.