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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 286 Session of  
2019

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INTRODUCED BY METCALFE, DIAMOND, KAUFFMAN, JAMES, IRVIN, COX AND  
KEEFER, JANUARY 30, 2019

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REFERRED TO COMMITTEE ON HEALTH, JANUARY 30, 2019

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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.