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Legislative Document

No. 1303

H.P. 900

House of Representatives, April 4, 2017

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

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative O'CONNOR of Berwick.

Cosponsored by Representatives: SANDERSON of Chelsea, SIROCKI of Scarborough.

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

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

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

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

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

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

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

17 **Sec. 4. 20-A MRSA §6358**, as amended by PL 2001, c. 326, §3 and PL 2003, c.
18 689, Pt. B, §6, is repealed.

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

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

23 **Sec. 6. 20-A MRSA §6359, sub-§2**, as amended by PL 2001, c. 326, §5 and PL
24 2003, c. 689, Pt. B, §6, is further amended to read:

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

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

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

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

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

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

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

8 **§1067. Vaccine Consumer Protection Program**

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

11 A. "Health care provider" means a physician, nurse, clinic, hospital or other entity
12 licensed by this State to provide health care services that administers vaccines.

13 B. "Office" means the Vaccine Consumer Protection Office established in this
14 section.

15 C. "Program" means the Vaccine Consumer Protection Program established in this
16 section.

17 D. "Vaccine injury table" means the vaccine injury table of covered vaccines and
18 associated injuries established by 42 Code of Federal Regulations, Section 100.3
19 (2000).

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

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

25 The office shall establish and implement procedures to:

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

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

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

36 D. Write and publicize a vaccine information statement. The statement must include
37 evidence-based information about vaccines and their potentially adverse side effects,
38 inform patients about their right to opt out of vaccine requirements based on religious

1 and philosophical grounds and offer a step-by-step explanation about how to pursue
2 legal recourse if an individual suspects a vaccine injury has occurred. When drafting
3 the statement, the department shall consult with nationally recognized vaccine safety
4 advocates and the families of children in the State who have been injured by
5 vaccines;

6 E. Investigate potential vaccine injuries;

7 F. Evaluate vaccine injury claims;

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

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

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

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

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

21 **5. Repeal.** Upon the repeal of the National Childhood Vaccine Injury Act of 1986,
22 42 United States Code, Sections 300aa-1 to 300aa-34, the department shall submit
23 legislation repealing this section.

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

29 SUMMARY

30 This bill establishes the Vaccine Consumer Protection Program within the
31 Department of Health and Human Services and describes the services provided under the
32 program. This bill also clarifies that a medical exemption from immunization for the
33 purposes of school attendance is to be determined by the child's physician. This bill also
34 removes the Commissioner of Education and the Department of Health and Human
35 Services rule-making authority regarding the statutory immunization provisions and
36 school and municipal authority to have more stringent immunization requirements than
37 state law.