

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 987

S.P. 277

In Senate, February 26, 2019

**An Act To Provide Autonomy for Health Care Providers To
Practice Patient-centered Care by Amending the Laws Governing
Medical Exemptions to Immunization Requirements**

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BLACK of Franklin.
Cosponsored by Representative SAMPSON of Alfred and
Senators: DAVIS of Piscataquis, FOLEY of York, GUERIN of Penobscot, KEIM of Oxford,
MIRAMANT of Knox, Representatives: KESCHL of Belgrade, O'CONNOR of Berwick,
WARREN of Hallowell.

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

2 **Sec. 1. 20-A MRSA §6353, sub-§1**, as enacted by PL 1983, c. 661, §8, is
3 amended to read:

4 **1. Certificate of immunization.** "Certificate of immunization" means a written
5 statement from a ~~physician, nurse~~ health care provider or public health official who has
6 administered an immunizing agent to a child, specifying the dosage administered and the
7 date it was administered.

8 **Sec. 2. 20-A MRSA §6353, sub-§3-A** is enacted to read:

9 **3-A. Health care provider.** "Health care provider" means a physician, nurse or
10 person that is licensed or otherwise authorized in this State to prescribe an immunizing
11 agent.

12 **Sec. 3. 20-A MRSA §6355, sub-§1**, as enacted by PL 1983, c. 661, §8, is
13 amended to read:

14 **1. Written assurance.** The parent provides a written assurance the child will be
15 immunized within 90 days by private effort or provides, where applicable, a written
16 consent to the child's immunization by a public health officer, physician, nurse or other
17 authorized person or a health care provider in public or private employ.

18 **Sec. 4. 20-A MRSA §6355, sub-§2**, as amended by PL 2001, c. 326, §2, is
19 further amended to read:

20 **2. Medical exemption.** The parent or the child provides a ~~physician's~~ health care
21 provider's written statement that immunization against one or more of the diseases may
22 be medically inadvisable as determined by the health care provider. An exemption under
23 this subsection is at the sole discretion of the health care provider providing the written
24 statement. The Commissioner of Education and the Department of Health and Human
25 Services may not adopt rules limiting the application of this subsection, including, but not
26 limited to, rules establishing requirements for medical exemptions and rules requiring
27 review, acceptance or rejection of medical exemptions by the Commissioner of Education
28 or the Department of Health and Human Services.

29 **Sec. 5. 20-A MRSA §6358, sub-§2**, as enacted by PL 1983, c. 661, §8, is
30 repealed.

31 **Sec. 6. 20-A MRSA §6359, sub-§1, ¶A**, as amended by PL 1991, c. 146, §1, is
32 further amended to read:

33 A. "Certificate of immunization" means a written statement from a ~~physician, nurse~~
34 health care provider or public health official who has administered an immunizing
35 agent to a student, specifying the dosage administered and the date it was
36 administered.

1 **Sec. 7. 20-A MRSA §6359, sub-§1, ¶G-1**, as enacted by PL 1991, c. 146, §2, is
2 repealed.

3 **Sec. 8. 20-A MRSA §6359, sub-§3, ¶A**, as amended by PL 1991, c. 146, §3, is
4 further amended to read:

5 A. The parent or the student provides a physician's health care provider's written
6 statement ~~or a written statement from a school health provider~~ that immunization
7 against one or more of the diseases may be medically inadvisable as determined by
8 the health care provider. An exemption under this paragraph is at the sole discretion
9 of the health care provider providing the written statement. The school may not
10 adopt policies limiting the application of this paragraph, including, but not limited to,
11 policies establishing requirements for medical exemptions and policies requiring the
12 school's review, acceptance or rejection of medical exemptions.

13 **Sec. 9. 20-A MRSA §6359, sub-§6**, as amended by PL 1991, c. 146, §4, is
14 further amended to read:

15 **6. Rules; requirements; reports.** The Director of the Bureau of Health shall adopt
16 rules necessary for the effective implementation of this subchapter, including, but not
17 limited to, rules establishing immunization requirements ~~and medical exceptions to~~
18 ~~receiving vaccines or toxoids~~ for each disease, school record keeping and reporting
19 requirements or guidelines and procedures for the exclusion of nonimmunized students
20 from school.

21 ~~Immunization requirements more stringent than the provisions of this subchapter may be~~
22 ~~adopted by a school board or by policy of a private school's governing board.~~

23 **Sec. 10. 22 MRSA §802, sub-§4-B, ¶A**, as enacted by PL 2001, c. 185, §2, is
24 amended to read:

25 A. A medical exemption is available to an employee who provides a physician's
26 health care provider's written statement that immunization against one or more
27 diseases may be medically inadvisable as determined by the health care provider. An
28 exemption under this paragraph is at the sole discretion of the health care provider
29 providing the written statement. The department may not adopt rules limiting the
30 application of this paragraph, including, but not limited to, rules establishing
31 requirements for medical exemptions and rules requiring review, acceptance or
32 rejection of medical exemptions by the department. For the purposes of this
33 paragraph, "health care provider" has the same meaning as in Title 20-A, section
34 6353, subsection 3-A.

35 **Sec. 11. 22 MRSA §8302-A, sub-§1, ¶B**, as enacted by PL 1997, c. 494, §10
36 and affected by §15, is amended to read:

37 B. The health and safety of the children and staff, including training on
38 communicable diseases. Rules adopted by the department that require a child
39 attending a child care facility to be immunized must provide that a medical
40 exemption is available if the child's parent or legal guardian provides a health care
41 provider's written statement that immunization against one or more diseases may be

1 medically inadvisable as determined by the health care provider. An exemption is at
2 the sole discretion of the health care provider providing the written statement. The
3 department may not adopt rules limiting the application of this paragraph, including,
4 but not limited to, rules establishing requirements for medical exemptions and rules
5 requiring review, acceptance or rejection of medical exemptions by the department.
6 For the purposes of this paragraph, "health care provider" has the same meaning as in
7 Title 20-A, section 6353, subsection 3-A;

8 **Sec. 12. 22 MRSA §8302-A, sub-§2, ¶H,** as enacted by PL 1997, c. 494, §10
9 and affected by §15, is amended to read:

10 H. Health and safety of the children and staff. Rules adopted by the department that
11 require a child attending day care in the home of a family child care provider to be
12 immunized must provide that a medical exemption is available if the child's parent or
13 legal guardian provides a health care provider's written statement that immunization
14 against one or more diseases may be medically inadvisable as determined by the
15 health care provider. An exemption is at the sole discretion of the health care
16 provider providing the written statement. The department may not adopt rules
17 limiting the application of this paragraph, including, but not limited to, rules
18 establishing requirements for medical exemptions and rules requiring review,
19 acceptance or rejection of medical exemptions by the department. For the purposes
20 of this paragraph, "health care provider" has the same meaning as in Title 20-A,
21 section 6353, subsection 3-A;

22 **SUMMARY**

23 This bill provides that a medical exemption from immunization for the purposes of
24 attendance at a nursery school, a child care facility, a family child care provider or an
25 elementary, secondary or postsecondary school, or for employees at certain health care
26 facilities, is at the sole discretion of the student's or employee's health care provider. It
27 prohibits the adoption of rules or policies related to medical exemptions, including, but
28 not limited to, rules or policies that establish requirements for medical exemptions and
29 rules or policies requiring the review, acceptance or rejection of medical exemptions.
30 The bill also removes the authority of school boards, the governing boards of private
31 schools and municipalities to have more stringent immunization requirements than state
32 law.