



GOV. MSG. NO. 571

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 17, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 17, 2010, the following bill was signed into law:

SB2729 SD2 HD1 CD1

A BILL FOR AN ACT
RELATING TO IMMUNIZATION.
ACT 113 (10)

Sincerely,



LINDA LINGLE

A BILL FOR AN ACT

RELATING TO IMMUNIZATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 325, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . IMMUNIZATION REGISTRY

5 §325-A Definitions. As used in this part:

6 "Health care provider" means a program, agency, clinic,
7 health care center, physician licensed under the provisions of
8 chapter 453, advanced practice registered nurse recognized under
9 the provisions of chapter 457, pharmacist licensed under the
10 provisions of chapter 461, physician's assistant licensed under
11 the provisions of chapter 453, or person authorized to practice
12 medicine as a physician or physician's assistant, or nursing as
13 an advanced practice registered nurse, in federal facilities
14 located in the state, that administers immunizations in Hawaii.

15 "Post-secondary school" means any adult education school,
16 business school, trade school, community college, college, or



1 university enrolling or registering students above the age of
2 compulsory attendance.

3 "Registry" means the Hawaii immunization registry.

4 "School" means any child care center, preschool, day care
5 center, day nursery, head start program, group child care home,
6 kindergarten, elementary, intermediate, middle, or secondary
7 school that is responsible for ensuring student compliance with
8 mandatory school immunization entrance requirements.

9 "Student" means any child or adult enrolled in any school or
10 post-secondary school in the state.

11 **§325-B Hawaii immunization registry; establishment and**
12 **purposes.** The department of health may establish and maintain
13 an immunization information system to be designated as the
14 Hawaii immunization registry. The purposes of the registry
15 shall be to maintain a single statewide repository of
16 immunization records to aid, coordinate, and help promote
17 efficient and cost-effective screening, prevention, and control
18 of vaccine-preventable diseases, including pandemic influenza.

19 **§325-C Confidentiality and content of registry records.**

20 (a) All immunization records and reports made for the purposes
21 of this part that directly or indirectly identify a person shall



1 be kept confidential and shall not be disclosed by any person
2 unless:

- 3 (1) The person identified, the person's legal guardian, or
4 in the case of a minor, the minor's parent or legal
5 guardian consents;
- 6 (2) Disclosure is deemed necessary by the director of
7 health to carry out this chapter;
- 8 (3) A court directs upon its determination that disclosure
9 is necessary for the conduct of proceedings before it;
- 10 (4) The disclosure is made between the person's health care
11 provider and payor to obtain reimbursement for
12 services rendered to the person; provided that
13 disclosure shall be made only if the provider informs
14 the person that a reimbursement claim will be made to
15 the person's payor, the person is afforded an
16 opportunity to pay the reimbursement directly, and the
17 person does not pay; or
- 18 (5) The department of health releases aggregate
19 immunization information that does not disclose any
20 identifying information of persons whose information
21 is maintained in the registry.



1 (b) Registry information shall be limited to patient name,
2 demographic information, and contact information; information
3 specific to immunizations or medications received by the
4 patient, including types, manufacturers, lot numbers, expiration
5 dates, anatomical sites of administration, routes of
6 administration, vaccine information statement publication dates,
7 doses, dates administered, and adverse reactions to
8 immunizations or medications; and the name and contact
9 information of the vaccination administrator or medication
10 provider and the patient's health care provider.

11 (c) The department of health shall adopt measures to
12 ensure the security of the registry to prevent unauthorized
13 access to registry information.

14 **§325-D Purposes for access to registry information; access**
15 **not a disclosure.** (a) Notwithstanding section 325-C, it shall
16 not be a disclosure for the persons listed in subsections (b),
17 (c), and (d) to have limited access to registry information for
18 the purposes specified in each subsection.

19 (b) Registry information regarding specific individuals in
20 the registry may be accessed by health care providers who are
21 treating, have treated, or have been assigned to treat those
22 individuals; by employees of these health care providers; and by



1 authorized department of health personnel assigned to monitor
2 the immunization or health status of those individuals for the
3 purposes of:

- 4 (1) Recording the administration of any vaccination,
5 including pandemic influenza vaccine;
 - 6 (2) Determining the immunization history of a patient to
7 deliver health care treatment accordingly;
 - 8 (3) Notifying individuals or parents or legal guardians of
9 the need to schedule a visit for an immunization;
 - 10 (4) Generating official immunization records;
 - 11 (5) Ensuring compliance with mandatory immunization
12 requirements; or
 - 13 (6) Recording the distribution of prophylactic and
14 treatment medications administered or dispensed in
15 preparation for and in response to a potentially
16 catastrophic disease threat.
- 17 (c) Registry information regarding specific individuals in
18 the registry may be accessed by school and post-secondary school
19 personnel authorized by the director of health, the
20 superintendent of education, or the administrator of a private
21 or post-secondary school for the purpose of ensuring compliance
22 with mandatory student immunization requirements.



1 (d) Registry information regarding specific individuals in
2 the registry may be accessed by the department of health or
3 agents of the department of health for the purposes of:

4 (1) Ensuring compliance with mandatory immunization
5 requirements;

6 (2) Performing immunization-related quality improvement or
7 quality assessment activities;

8 (3) Complying with Hawaii vaccines for children and teen
9 vax programs' vaccine accountability policies and
10 procedures;

11 (4) Producing aggregate immunization assessment reports to
12 monitor and improve public health;

13 (5) Supporting efforts to prevent and manage outbreaks of
14 vaccine-preventable diseases, including pandemic
15 influenza;

16 (6) Assisting the department of health in the event of a
17 public health emergency; or

18 (7) Managing and maintaining the Hawaii immunization
19 registry system.

20 (e) The use of registry information accessed pursuant to
21 this section shall be limited to the purposes for which access
22 is granted.



1 **§325-E Registry record requirements; duration of**
2 **retention.** (a) The establishment of an individual's record in
3 the registry shall not require the prior consent of a patient or
4 the consent of a patient's parent or legal guardian in the case
5 of a minor or dependent. The department of health shall make
6 available to the patient or the patient's parent or legal
7 guardian in the case of a minor or dependent, via the patient's
8 health care provider or birthing hospital, a written description
9 of the purpose and benefits of the registry as well as the
10 procedure for refusing inclusion in the registry. No registry
11 information shall be established in the registry for any patient
12 who in writing refuses, or, in the case of a minor or dependent,
13 the patient's parent or legal guardian who in writing refuses to
14 allow the information to be included in the registry. Each
15 health care provider or birthing hospital shall maintain the
16 records of refusal of inclusion and shall report any refusal to
17 the department of health in a manner specified by rule.

18 (b) Registry information for any individual included
19 within the registry shall be retained as a part of the registry
20 for twenty-five years after the last entry, except in the case
21 of minors, whose records shall be retained during the period of
22 minority plus twenty-five years after the minor reaches the age



1 of majority. At the conclusion of the retention period, the
2 data stored in the registry for that individual shall be
3 archived.

4 §325-F Civil and criminal liability. (a) Authorized
5 users of the registry shall not be subject to civil liability
6 for damages by reason of:

7 (1) Providing information to the registry in good faith;
8 or

9 (2) Accessing and using information from the registry in
10 good faith for the purposes specified in section 325-
11 D.

12 (b) Any person who intentionally or knowingly discloses
13 registry information contrary to the confidentiality provisions
14 of this part shall be guilty of a misdemeanor."

15 SECTION 2. Section 325-13, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§325-13 [~~Regulations.~~] Rules. (a) For the purpose of
18 carrying out this chapter, the director of health, with the
19 approval of the governor, may [~~make such regulations~~] adopt,
20 amend, or repeal such rules as the director deems necessary
21 which, when adopted in accordance with [~~section 321-10,~~] chapter
22 91, shall have the force and effect of law.



- 1 (b) The rules shall be designed to:
- 2 (1) Protect the health and safety of the public;
- 3 (2) Establish appropriate levels of access to Hawaii
- 4 immunization registry information by authorized users;
- 5 (3) Establish data entry and reporting requirements for
- 6 health care providers; and
- 7 (4) Establish penalties for the failure to comply with any
- 8 rule."

9 SECTION 3. In codifying the new sections in the new part
 10 added to chapter 325, Hawaii Revised Statutes, by section 1 of
 11 this Act, the revisor of statutes shall substitute appropriate
 12 section numbers for the letters used in designating and
 13 referring to the new sections in this Act.


14 SECTION 4. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, and proceedings that were
 16 begun before its effective date.

17 SECTION 5. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon approval.

20

APPROVED this 17 day of MAY, 2010



GOVERNOR OF THE STATE OF HAWAII