

2022 -- S 2520

=====
LC004511
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

—————
A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- "THE RHODE ISLAND INFORMED
CONSENT PROTECTION ACT"

Introduced By: Senators de la Cruz, and Rogers

Date Introduced: March 01, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"

2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 37.8

4 THE RHODE ISLAND INFORMED CONSENT PROTECTION ACT

5 **5-37.8-1. Short title.**

6 This chapter shall be known and may be cited as "The Rhode Island Informed Consent
7 Protection Act."

8 **5-37.8-2. Definitions.**

9 The following words and phrases as used in this chapter shall have the following meanings:

10 (1) "Department" means the Rhode Island department of health.

11 (2) "Director" means the director of the Rhode Island department of health.

12 (3) "Emergency medical condition" shall have the same meaning as promulgated in § 27-
13 18-76.

14 (4) "Informed consent" means the permission granted with knowledge of the possible
15 consequences to include full knowledge of the possible risks and benefits and with voluntary
16 agreement being absent of coercion, threat or punishment.

17 (5) "License" means any license or registration issued or regulated by the department of
18 health to practice medicine, provide health care services or to provide institutional health care

1 services.

2 (6) "Practitioner" means any person in possession of a license or registration and engaged
3 in providing health care services.

4 **5-37.8-3. Nondiscrimination for vaccine refusal.**

5 (a) A practitioner or a health care facility may not discriminate against a patient or parent
6 or guardian of a patient based solely upon a patient or parent or guardian of a patient choosing to
7 delay or decline a vaccination. Exercising the right to informed consent by delaying or declining
8 vaccinations under this chapter may not be the reason for a patient or family member of a patient
9 to be dismissed from a practice or lose medical privileges or benefits.

10 (b) Prohibition against harassment. A practitioner or health care facility shall not harass,
11 coerce, or threaten a patient or parent or guardian of a patient for exercising the right to delay or
12 decline a vaccination.

13 (c) Any insurer as defined in § 27-18.4-1 shall not deny coverage, increase a premium or
14 otherwise discriminate against an insured or applicant for insurance based on the individual's choice
15 to delay or decline a vaccination for the individual or the individual's child.

16 (d) No employer shall deny employment, terminate employment, or otherwise discriminate
17 against an individual based on the individual's choice to delay or decline vaccination.

18 (e) No insurer shall discriminate against a practitioner or health care facility by decreasing
19 reimbursement, by imposition of financial penalties, or by denial of participation in an insurance
20 plan as a result of a practitioner's decision to not vaccinate a patient.

21 **5-37.8-4. Prohibited activities.**

22 (a) A practitioner shall not accept a monetary payment in the form of a bonus or other
23 incentive from an insurance company or pharmaceutical company for patient vaccination.

24 (b) A practitioner shall not require a patient or parent or guardian of a patient to sign a
25 liability waiver as a condition to receive medical care in the event the patient or parent or guardian
26 of a patient chooses to delay or decline a vaccination.

27 **5-37.8-5. Informed consent in writing.**

28 Practitioners providing vaccines shall provide informed consent in writing to be signed by
29 the recipient, or in the case of a minor child the signature of a parent or legal guardian shall be
30 acquired prior to administration of the vaccine. The language of the informed consent shall be
31 approved by the director and shall contain an advisement of the right to decline the vaccine, and
32 information regarding the possibility of recovery pursuant to a claim filed for injury resulting from
33 a covered vaccine by petition to the National Vaccine Injury Compensation Program.

34 **5-37.8-6. Civil recovery and penalties.**

1 (a) Any person who violates the provisions of this chapter may be held liable for actual
2 damages.

3 (b) Any person who, after a hearing is found to have intentionally and knowingly violated
4 the provision of this chapter, shall be fined not more than twenty-five thousand dollars (\$25,000)
5 per patient, per violation.

6 **5-37.8-7. Rules and regulations.**

7 The director of the department of health shall develop rules and regulations to implement
8 the provisions of this chapter.

9 **5-37.8-8. Enforcement.**

10 The director shall have the power to investigate complaints of violation of this chapter by
11 any practitioner, to conduct evidentiary hearings, impose discipline and fines for violations.

12 **5-37.8-9. Appeal procedure.**

13 In the case of any adverse determination by the director pursuant to § 5-37.8-8, appeals
14 may be taken in accordance with the administrative procedures act, chapter 35 of title 42.

15 SECTION 2. Section 40-11-3 of the General Laws in Chapter 40-11 entitled "Abused and
16 Neglected Children" is hereby amended to read as follows:

17 **40-11-3. Duty to report -- Deprivation of nutrition or medical treatment.**

18 (a) Any person who has reasonable cause to know or suspect that any child has been abused
19 or neglected as defined in § 40-11-2, or has been a victim of sexual abuse by another child, shall,
20 within twenty-four (24) hours, transfer that information to the department of children, youth and
21 families, or its agent, who shall cause the report to be investigated immediately. As a result of those
22 reports and referrals, protective social services shall be made available to those children in an effort
23 to safeguard and enhance the welfare of those children and to provide a means to prevent further
24 abuse or neglect. The department shall establish and implement a single, statewide, toll-free
25 telephone to operate twenty-four (24) hours per day, seven (7) days per week for the receipt of
26 reports concerning child abuse and neglect, which reports shall be electronically recorded and
27 placed in the central registry established by § 42-72-7. The department shall create a sign, using a
28 format that is clear, simple, and understandable to students, that contains the statewide toll-free
29 telephone number for posting in all public and private schools in languages predominately spoken
30 in the state, containing pertinent information relating to reporting the suspicion of child abuse,
31 neglect and sexual abuse. This sign shall be available to the school districts electronically. The
32 electronically recorded records, properly indexed by date and other essential, identifying data, shall
33 be maintained for a minimum of three (3) years; provided, however, any person who has been
34 reported for child abuse and/or neglect, and who has been determined not to have neglected and/or

1 abused a child, shall have his or her record expunged as to that incident three (3) years after that
2 determination. The department shall continuously maintain a management-information database
3 that includes all of the information required to implement this section, including the number of
4 cases reported by hospitals, health-care centers, emergency rooms, and other appropriate health-
5 care facilities.

6 (b) The reporting shall include immediate notification of the department of any instance
7 where parents of an infant have requested deprivation of nutrition that is necessary to sustain life
8 and/or who have requested deprivation of medical or surgical intervention that is necessary to
9 remedy or ameliorate a life-threatening medical condition, if the nutrition or medical or surgical
10 intervention is generally provided to similar nutritional, medical, or surgical conditioned infants,
11 whether disabled or not.

12 No investigation shall be initiated against a parent or guardian for the sole reason that the
13 parent or guardian chose to delay or decline a vaccination for a child of the parent or under the care
14 of the guardian.

15 (c) Nothing in this section shall be interpreted to prevent a child's parents and physician
16 from discontinuing the use of life-support systems or nonpalliative treatment for a child who is
17 terminally ill where, in the opinion of the child's physician exercising competent medical judgment,
18 the child has no reasonable chance of recovery from the terminal illness despite every, appropriate
19 medical treatment to correct the condition.

20 SECTION 3. This act shall take effect upon passage.

=====
LC004511
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- "THE RHODE ISLAND INFORMED
CONSENT PROTECTION ACT"

1 This act would require that health care professionals provide written informed consent
2 signed by the recipient, or in the case of a minor child, by a parent or guardian prior to
3 administration of a vaccine. It would prohibit discrimination against individuals who refuse or
4 delay vaccines. The act would also provide for civil recovery and fines of up to twenty-five
5 thousand dollars (\$25,000) for violations. It would further prohibit DCYF from investigating a
6 parent/guardian for failure to vaccinate child.

7 This act would take effect upon passage.

=====
LC004511
=====