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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

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

Introduced By: Senators Metts, Morgan, and de la Cruz

Date Introduced: February 27, 2020

Referred To: Senate Health & Human Services

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
10 meanings:

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

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

13 (3) "Emergency medical condition" shall have the same meaning as promulgated in § 27-
14 18-76.

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

18 (5) "License" means any license or registration issued or regulated by the department of

1 health to practice medicine, provide health care services or to provide institutional health care
2 services.

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

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

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

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

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

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

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

23 **5-37.8-4. Prohibited activities.**

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

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

29 **5-37.8-5. Informed consent in writing.**

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

1 [from a covered vaccine by petition to the National Vaccine Injury Compensation Program.](#)

2 **5-37.8-6. Civil recovery and penalties.**

3 [\(a\) Any person who violates the provisions of this chapter may be held liable for actual](#)
4 [damages.](#)

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

8 **5-37.8-7. Rules and regulations.**

9 [The director of the department of health shall develop rules and regulations to implement](#)
10 [the provisions of this chapter.](#)

11 **5-37.8-8. Enforcement.**

12 [The director shall have the power to investigate complaints of violation of this chapter by](#)
13 [any practitioner, to conduct evidentiary hearings, impose discipline and fines for violations.](#)

14 **5-37.8-9. Appeal procedure.**

15 [In the case of any adverse determination by the director pursuant to § 5-37.7-8, appeals](#)
16 [may be taken in accordance with the administrative procedures act, chapter 35 of title 42.](#)

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

19 **40-11-3. Duty to report -- Deprivation of nutrition or medical treatment.**

20 (a) Any person who has reasonable cause to know or suspect that any child has been
21 abused or neglected as defined in § 40-11-2, or has been a victim of sexual abuse by another
22 child, shall, within twenty-four (24) hours, transfer that information to the department of children,
23 youth and families, or its agent, who shall cause the report to be investigated immediately. As a
24 result of those reports and referrals, protective social services shall be made available to those
25 children in an effort to safeguard and enhance the welfare of those children and to provide a
26 means to prevent further abuse or neglect. The department shall establish and implement a single,
27 statewide, toll-free telephone to operate twenty-four (24) hours per day, seven (7) days per week
28 for the receipt of reports concerning child abuse and neglect, which reports shall be electronically
29 recorded and placed in the central registry established by § 42-72-7. The department shall create a
30 sign, using a format that is clear, simple, and understandable to students, that contains the
31 statewide toll-free telephone number for posting in all public and private schools in languages
32 predominately spoken in the state, containing pertinent information relating to reporting the
33 suspicion of child abuse, neglect and sexual abuse. This sign shall be available to the school
34 districts electronically. The electronically recorded records, properly indexed by date and other

1 essential, identifying data, shall be maintained for a minimum of three (3) years; provided,
2 however, any person who has been reported for child abuse and/or neglect, and who has been
3 determined not to have neglected and/or abused a child, shall have his or her record expunged as
4 to that incident three (3) years after that determination. The department shall continuously
5 maintain a management-information database that includes all of the information required to
6 implement this section, including the number of cases reported by hospitals, health-care centers,
7 emergency rooms, and other appropriate health-care facilities.

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

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

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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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.

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