

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 135
Finance

(Senator Feldman)

Public Health - Immunizations - Minor Consent (Access to Vaccines Act)

This bill authorizes a health care provider to provide an immunization to a minor without the consent of a parent or an individual who has the authority to consent to the minor's immunization if (1) the minor consents to the immunization; (2) the minor is at least 16 years old; and (3) the health care provider determines that the minor is mature and capable of giving informed consent to the immunization. Under these circumstances, a health care provider may provide an immunization to a minor whether or not a parent is not reasonably available or objects to the immunization. The responsibility of a health care provider to provide information to a minor consenting to an immunization is the same as the health care provider's responsibility to a parent consenting to the immunization of a minor. The bill also defines "parent" and makes technical and conforming changes.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: To the extent that demand for immunizations at local health departments increases, fee revenues increase minimally. Any additional demand can be handled with existing resources, although operational procedures related to consent are affected.

Small Business Effect: Potential meaningful, to the extent that small businesses, such as local pharmacies and clinics, provide immunizations to eligible minors.

Analysis

Current Law:

Delegation of Parental Consent to the Immunization of a Minor

A parent may delegate verbally or in writing the parent's authority to consent to the immunization of a minor to any of the following individuals, not in order of priority: (1) a grandparent; (2) an adult brother or sister; (3) an adult aunt or uncle; (4) a stepparent; or (5) any other adult who has care and control of the minor.

If a parent verbally delegates the parent's authority to consent to the immunization of a minor, the person delegated the authority must confirm the verbal delegation in writing and the written confirmation must be included in the minor's medical record.

A grandparent, adult brother or sister, adult aunt or uncle, or stepparent of a minor who is the primary caregiver of the minor and who may consent to the immunization of the minor may delegate the authority to consent to the immunization of the minor to another adult in the manner permitted by a parent delegating authority.

A person who consents to immunization of a minor must provide the health care provider with sufficient and accurate health information about the minor for whom the consent is given and, if necessary, sufficient and accurate health information about the minor's family to enable the person providing the consent and the health care provider to determine adequately the risks and benefits inherent in the proposed immunization and determine whether the immunization is advisable.

Consent to Immunization if Parent Not Reasonably Available

In general, the following individuals, not in order of priority, may consent to the immunization of a minor if a parent is not reasonably available and the authority to consent is not denied: (1) a grandparent; (2) an adult brother or sister; (3) an adult aunt or uncle; (4) a stepparent; (5) any other adult who has care and control of the minor; (6) a court that has jurisdiction of a suit affecting the parent-child relationship of which the minor is the subject; (7) an adult who has care and control of the minor under an order of a court or by commitment by a court to the care of an agency of the State or county if the adult reasonably believes the minor needs immunization; or (8) for minors in its care and custody, the Department of Juvenile Services (DJS).

A person may not consent to the immunization of a minor if (1) the person has actual knowledge that the parent has expressly refused to give consent to the immunization or (2) the parent has told the person that the person may not consent to the immunization of

the minor or, in the case of a written authorization, has withdrawn the authorization in writing.

When a parent has been contacted and requested to consent to the immunization of a minor, DJS may consent to the immunization of a minor in its care and custody if the parent (1) has not acted on the request and (2) has not expressly denied to DJS the authority to consent to the immunization of the minor.

A person is not reasonably available if (1) the location of the person is unknown; (2) a reasonable effort made by an appropriate person to locate and communicate with the parent for the purpose of obtaining consent has failed and no more than 90 days have passed since the date that the effort was made; or (3) the parent has been contacted by an appropriate person and requested to consent to the immunization of the minor, and the parent has not acted on the request and has not expressly denied authority to the appropriate person to consent to the immunization of the minor.

A person authorized to consent to the immunization of a minor must confirm that the parent is not reasonably available in writing, and the written confirmation must be included in the minor's medical record.

Minor's Capacity to Consent to Medical Treatment

A minor has the same capacity as an adult to consent to medical or dental treatment if the minor is (1) married; (2) the parent of a child; or (3) living separate and apart from the minor's parent(s) or guardian and self-supporting.

A minor has the same capacity as an adult to consent to (1) treatment for or advice about venereal disease, pregnancy, contraception other than sterilization, drug abuse, and alcoholism; (2) physical examination and treatment of injuries from, or to obtain evidence of, an alleged rape or sexual offense; (3) initial medical screening and physical examination on and after admission of the minor into a detention center; and (4) treatment for the prevention of HIV.

A minor also has the same capacity as an adult to consent to medical treatment if, in the judgment of the attending physician, the life or health of the minor would be affected adversely by a delay of treatment to obtain another individual's consent.

Background: Several states, including California, Delaware, and New York, allow adolescents to make decisions regarding prevention of sexually transmitted infections, including acceptance of vaccinations. Idaho allows adolescents to make independent medical decisions when a clinician believes the minor is capable of fulfilling informed-consent responsibilities. At least three other states permit adolescents to make a

broad array of autonomous clinical decisions, including regarding vaccination (Alabama at age 14, Oregon at age 15, and South Carolina at age 16). Alaska allows minors to make independent decisions when a parent “is unwilling either to grant or withholds consent.”

Additional Information

Prior Introductions: None.

Designated Cross File: HB 87 (Delegate Korman) - Health and Government Operations.

Information Source(s): Maryland State Department of Education; Maryland Department of Health; Department of Juvenile Services; U.S. Centers for Disease Control and Prevention; *New England Journal of Medicine*; Department of Legislative Services

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