

Senate Bill 869

Sponsored by Senator BOQUIST (at the request of Brittany Ruiz)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires health care practitioner, before administering vaccination to child, to obtain informed consent from parent of child or, if child is emancipated or has reached age of majority, from child. Establishes requirements for obtaining informed consent.

A BILL FOR AN ACT

1
2 Relating to informed consent for vaccinations; creating new provisions; and amending ORS 433.267.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 433.235 to**
5 **433.284.**

6 **SECTION 2. (1) Before administering a vaccination to a child, a health care practitioner**
7 **shall obtain informed consent from:**

8 (a) **The parent of the child; or**

9 (b) **If the child is emancipated or has reached the age of majority, the child.**

10 (2) **To obtain informed consent under this section, a health care practitioner must:**

11 (a) **Provide notice of the benefits and risks of each vaccination that the child is required**
12 **to receive as a condition of attending a school or children's facility in this state under ORS**
13 **433.267;**

14 (b) **If the child is receiving a vaccination, provide a copy of the vaccine information**
15 **statement most recently published by the Centers for Disease Control and Prevention for**
16 **that vaccine and a copy of the vaccine package insert for that vaccine;**

17 (c) **If the child is receiving a vaccination, make available for review the Vaccine Excipient**
18 **and Media Summary section of the most recent edition of Epidemiology and Prevention of**
19 **Vaccine-Preventable Diseases published by the Centers for Disease Control and Prevention;**
20 **and**

21 (d) **If the child is receiving a vaccination, provide notice of how to file a petition for a**
22 **claim pursuant to the National Vaccine Injury Compensation Program established by the**
23 **United States Department of Health and Human Services, including the contact information**
24 **necessary to file a claim.**

25 (3) **The Oregon Health Authority shall adopt by rule the form and content of the notices**
26 **required by subsection (2)(a) and (d) of this section. As part of the content of the notices**
27 **required by subsection (2)(a) and (d) of this section, the authority shall include references**
28 **to the statutes and rules governing the notices and a description of the exemptions provided**
29 **for under ORS 433.267 and the processes required to obtain those exemptions.**

30 **SECTION 3. ORS 433.267 is amended to read:**

31 **433.267. (1) As a condition of [*attendance in any*] **attending** a school or children's facility in this**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 state, every child through grade 12 shall submit to the administrator **of the school or facility**, un-
 2 less the school or facility the child attends already has on file a record that indicates that the child
 3 has received immunizations against the restrictable diseases prescribed by rules of the Oregon
 4 Health Authority *[as provided in]* **pursuant to ORS 433.273**, one of the following:

5 (a) A document, signed by the parent **of the child**, *[a practitioner of the healing arts who has*
 6 *within the scope of the practitioner's license the authority]* **a health care practitioner who is au-**
 7 **thorized under the laws of this state** to administer immunizations or a representative of the local
 8 health department, certifying the immunizations the child has received **and documenting that in-**
 9 **formed consent has been obtained under section 2 of this 2017 Act;**

10 (b) A document, signed by a physician or a representative of the local health department, stating
 11 that the child should be exempted from receiving **a** specified immunization because of *[indicated*
 12 *medical diagnosis]* **a medical condition;** or

13 (c)(A) A document, on a form prescribed by the authority by rule and signed by the parent of
 14 the child, stating that the parent is declining one or more immunizations on behalf of the child.

15 **(B)** A document submitted under **subparagraph (A)** of this paragraph:

16 *[(A)]* (i) May include the reason for declining the immunization, including whether the parent
 17 is declining the immunization because of a religious or philosophical belief; and

18 *[(B)]* (ii) Must include either:

19 *[(i)]* (I) A signature from a health care practitioner verifying that the health care practitioner
 20 has reviewed with the parent information about the risks and benefits of immunization that is con-
 21 sistent with information published by the Centers for Disease Control and Prevention and the con-
 22 tents of the vaccine educational module approved by the authority pursuant to rules adopted under
 23 ORS 433.273; or

24 *[(ii)]* (II) A certificate verifying that the parent has completed a vaccine educational module
 25 approved by the authority pursuant to rules adopted under ORS 433.273.

26 (2)(a) A newly entering child or a transferring child *[shall be required to]* **must** submit the doc-
 27 ument described in subsection (1) of this section prior to attending the school or **children's** facility.

28 (b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the
 29 United States must submit the document *[required by]* **described in** subsection (1) of this section not
 30 later than the exclusion date *[set by rule of the authority]* **established by the authority by rule.**

31 (3) *[Persons who have]* **A person who has** been emancipated pursuant to ORS 419B.558 or who
 32 *[have]* **has** reached the age of consent for medical care pursuant to ORS 109.640 may sign *[those*
 33 *documents]*, **on the person's own behalf, the document** *[on their own behalf]* otherwise requiring
 34 the *[signatures of parents]* **signature of a parent** under subsection (1) of this section.

35 (4) The administrator **of a school or children's facility** shall conduct a primary evaluation of
 36 *[the records]* **each document** submitted *[pursuant to]* **under** subsection (1) of this section to deter-
 37 mine whether the child is entitled to begin attendance by reason of having submitted a document
 38 that complies with the requirements of subsection (1) of this section.

39 (5) If the *[records do]* **document submitted by a child under subsection (1) of this section**
 40 **does** not meet the initial minimum requirements established **by the authority** by rule, the *[child*
 41 *may not be allowed to attend]* **administrator of the school or children's facility may not allow**
 42 **the child to attend the school or facility** until the requirements are met. If the *[records meet]*
 43 **document meets** the initial minimum requirements, *[the child shall be allowed to attend]* **the ad-**
 44 **ministrator shall allow the child to attend the school or facility.**

45 (6) At the time specified by the authority by rule, *[records for children meeting]* **a document**

1 **that meets** the initial minimum requirements **as described in subsection (5) of this section** and
 2 records previously on file **at the school or children’s facility as described in subsection (1) of**
 3 **this section** shall be reviewed for *[completion of requirements]* **compliance with this section** by the
 4 administrator **of the school or facility** to determine whether the child *[is entitled to continue in*
 5 *attendance]* **may continue to attend the school or facility**. If the **document or** records do not
 6 comply, the administrator shall notify the local health department and *[shall transmit any]* **submit**
 7 **the document or** records *[concerning the child’s immunization status]* to the local health depart-
 8 ment.

9 (7) *[The]* **A** local health department shall *[provide for a secondary evaluation of the records]*
 10 **evaluate a document or records submitted to the local health department under subsection**
 11 **(6) of this section** to determine whether the child should be excluded for noncompliance with the
 12 requirements *[stated in]* **of** subsection (1) of this section. If the child is determined to be in non-
 13 compliance, the local health department shall issue an exclusion order and *[shall]* send copies of the
 14 order to the parent **of the child** or *[the person who]*, **if the child** is emancipated or has reached the
 15 age of majority, **the child**, and the administrator **of the school or children’s facility**. On the ef-
 16 fective date of the order, the administrator shall exclude the child from the school or facility and
 17 **may not** allow the child to attend the school or facility until the requirements of this section have
 18 been met.

19 (8) The administrator **of the school or children’s facility** shall readmit the child to the school
 20 or facility when in the judgment of the local health department the child is in compliance with the
 21 requirements of this section.

22 (9) The administrator **of the school or children’s facility** shall be responsible for updating
 23 *[the]* **any** document *[described in]* **submitted under** subsection (1)(a) of this section as necessary to
 24 reflect the current status of the immunization of the child **who submitted the document** and the
 25 time at which the child comes into compliance with immunizations against the restrictable diseases
 26 prescribed by rules of the authority pursuant to ORS 433.273.

27 (10) Nothing in this section shall be construed as relieving agencies, in addition to school dis-
 28 tricts, which are involved in the maintenance and evaluation of immunization records on April 27,
 29 1981, from continuing *[responsibility for these]* **to be responsible for such** activities.

30 (11) All documents required by this section shall be on forms approved or provided by the au-
 31 thority.

32 (12) In lieu of signed documents from **health care** practitioners, the authority may accept im-
 33 munization record updates using *[practitioner documented]* immunization records generated by elec-
 34 tronic means or on unsigned *[practitioner]* letterhead if the authority determines such records are
 35 accurate.

36 (13) As used in this section:

37 (a) “Newly entering child” means a child who is initially attending:

38 (A) A **children’s** facility in this state;

39 (B) A school at the entry grade level;

40 (C) **After receiving homeschooling**, either a school at any grade level or a **children’s** facility
 41 *[from homeschooling]*; or

42 (D) **After entering the United States from another country**, a school at any grade level or
 43 a **children’s** facility *[after entering the United States from another country]*.

44 (b) “Transferring child” means a child moving from:

45 (A) One **children’s** facility to another **children’s** facility;

1 (B) One school in this state to another school in this state, when the move is not the result of
2 a normal progression of grade level; or

3 (C) A school in another state to a school in this state.

4 **SECTION 4. The Oregon Health Authority shall adopt the form and content of the notices**
5 **required by section 2 of this 2017 Act on or before May 1, 2018.**

6 **SECTION 5. The amendments to ORS 433.267 by section 3 of this 2017 Act first apply to**
7 **documents submitted to the administrator of a school or children's facility during the**
8 **2018-2019 school year.**

9
