

Exhibit C

California Law on Vaccine In-jury Compensation
and
Rhode Island Legislative Proposal on Vaccine Injury Compensation

California Health and Safety Code

ARTICLE 14.5

Immunization Reactions

(Added by Stats 1977 ch 1097 1.)

429.35 Medical etc., care for reactions by minors: Claims reimbursement, and subrogation: Creation of Immunization Adverse Reaction Fund
 429.36 Liability for injuries caused by acts or omissions in administration of vaccine or other immunizing agent

(\$429.35. Medical, etc., care for reactions by minors: Claims, reimbursement, and subrogation: Creation of Immunization Adverse Reaction Fund

It is the intent of the Legislature to provide for care, including medical, institutional, supportive, and rehabilitative care, necessitated because of severe adverse reaction to any immunization required by state law to be administered to children under 18 years of age.

As used in this article, a severe adverse reaction is one which manifests itself not more than 30 days after the immunization and requires extensive medical care, as defined by regulation of the department.

Medical expenses shall be reimbursed by the state department in an amount not to exceed twenty-five thousand dollars (\$25,000).

Eligibility for reimbursement under this section shall be limited to persons requiring extensive medical care, as defined by the state department pursuant to this section. Such reimbursement shall be made without regard to ability to pay and neither the parents nor the estates of such persons shall be liable for repayment to the state of any portion of the amounts reimbursed pursuant to this article.

The state department shall, by regulation, establish procedures for processing claims pursuant to this section.

Whenever reimbursement is provided for medical expenses under this article, the state shall be subrogated to the rights of the person receiving reimbursement of medical expenses for any amounts due to or recoverable by such person from third parties. The subrogation shall be for an amount equal to any claim reimbursed under this article.

There is hereby created in the State Treasury the Immunization Adverse Reaction Fund, which shall be administered by the State Department of Health and is appropriated without regard to fiscal years.

Reimbursements made pursuant to this article shall be made from the Immunization Adverse Reaction Fund.

ff 429.36 Liability for in-juries caused by acts or omissions in administration of vaccine or other immunizing agent.

No person shall be liable for any injury caused by an act or omission in the administration of a vaccine or other immunizing agent to a minor, including the residual effects of the vaccine or immunizing agent, if such immunization is required by state law and the act or omission does not constitute willful misconduct or gross negligence.

79-s 77

Introduced by-
Senators Federico, Flynn and O'Neill

Ordered Printed by-
Senate

Referred to-
Senate Committee on Special Legislation

Date Printed-
January 10, 1979

State of Rhode Island and Providence Placations

JANUARY SESSION, A. D. 1979

An Act Pertaining to "Immunization Reactions".

It is enacted by the General Assembly as follows:

Section 1. Title 16 of the general laws entitled "Education" is hereby amended by adding thereto the following chapter:

"CHAPTER 16-21.2

"Immunization Reactions

"16-21.2-1. LEGISLATIVE INTENT. -- It is the intent of the legislature to provide for care, including medical,, institutional, supportive, and rehabilitative care, necessitated because of severe adverse reaction to any immunization required by state law to be administered to children under eighteen (18) years of age.

"16-21.2-2. REACTION DEFINED. -- As used in this chapter, a severe adverse reaction is one which manifests itself not more than thirty (30) days after the immunization and requires extensive medical care, as defined by regulation of the department of health.

"16-21.2-3. REIMBURSEMENT -- MEDICAL EXPENSES. -- Medical expenses shall be reimbursed by the state in an amount not to exceed twenty-five thousand dollars (\$25,000).

Eligibility for reimbursement under this section shall be limited to persons requiring extensive medical care, as defined by the health department pursuant to this section. Such reimbursement shall be made without regard to ability to pay and neither the parents nor the estates of such persons shall be liable for repayment to the state of any portion of the amounts reimbursed pursuant to this chapter.

The health department shall, by regulation, establish procedures for processing claims pursuant to this section

Whenever reimbursement is provided for medical expenses under this article, the state shall be subrogated to the rights of the person receiving reimbursement of medical expenses for any amounts due to or recoverable by such person from third parties. The subrogation shall be for an amount equal to any claim reimbursed under this chapter.

There is hereby created in the state treasury the immunization adverse reaction fund, which shall be administered by the department of health and is appropriated without regard to fiscal years. Reimbursements made pursuant to this article shall be made from the immunization adverse reaction fund.

"16-21.2-4. PERSONS LIABLE. -- No persons shall be liable for any injury caused by an act or omission in the administration of a vaccine or other immunizing agent to a minor, including the residual effects of the vaccine or immunizing agent, if such immunization is required by state law and the act or omission does not constitute willful misconduct or gross negligence."

Sec. 2. The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the general fund to the immunization adverse reaction fund for the purposes of this chapter.

Sec. 3. This act shall take effect upon passage.

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EXPLANATION

By the Legislative Council

Under existing law, there is no state program which provides for medical or institutional care or indemnification expressly for children who suffer an adverse reaction to a required immunization. Also, nothing in present law exempts physicians and surgeons from liability for damages caused by negligent acts or omissions in the administration of immunizing agents, except with respect to prescribed participation in the National Influenza Program of 1976.

This act would require the Department of Health to reimburse the medical expenses incurred for a child under the age of 18 as a result of a severe reaction to a state-required immunization, as specified. Such reimbursement would not exceed \$25,000, would be made without regard to ability to pay, and would be made without requirement of repayment.

This act would subrogate the state to the rights of the person receiving reimbursement for medical expenses to the extent of any reimbursement provided.

This act would exempt a person from liability for injury caused by acts or omissions, not constituting gross negligence or willful misconduct, in connection with the administration of an immunization required by state law.

This act would appropriate \$50,000 to the Immunization Adverse Reaction Fund, a continuously appropriated fund created by the act to carry out the provisions of the bill requiring indemnification for medical expenses.