SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 2655 (Blanca Rubio)
Version: April 21, 2022
Hearing Date: June 14, 2022
Fiscal: Yes
Urgency: No
AM

SUBJECT

Multicultural health

DIGEST

This bill requires the State Department of Public Health (DPH) to enter into a data sharing agreement with the California Tribal Epidemiology Center (CTEC) for access to and use of the California Reportable Disease Information Exchange (CalREDIE) and the California Immunization Registry (CAIR) systems no later than January 1, 2023, and prohibits the California Tribal Epidemiology Center from disclosing any information received to any person or entity, except in response to a court order, search warrant, or subpoena, or as otherwise required or permitted by specified federal medical privacy regulations.

EXECUTIVE SUMMARY

This bill provides CTEC access to CalREDIE and CAIR. CTEC is one of twelve Indian Health Service (IHS) Tribal Epidemiology Centers which partners with local IHS Area and state offices to provide epidemiologic support to Tribal communities, and is authorized under federal law as a public health authority. During the COVID-19 Pandemic, CTEC was unable to access CalREDIE in the same manner as other public health authorities in the state to receive timely public health data. Instead, CTEC could only submit requests for snapshot data, akin to what a research university would receive. This bill would treat CTEC in a similar manner as other public health authorities in the state by granting them access to CalREDIE and CAIR. The bill provides privacy protections by prohibiting CTEC from disclosing any information received, except in response to a court order, search warrant, or subpoena, or as otherwise required or permitted by specified federal medical privacy regulations.

This bill is sponsored by the California Rural Indian Health Board, Inc. There is no known opposition. It passed put of the Senate Health Committee on a vote of 9 to 0.

PROPOSED CHANGES TO THE LAW

Existing federal law:

1) Establishes the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which mandates industry-wide standards for health care information on electronic billing and other processes; and, requires the protection and confidential handling of protected health information. (42 U.S.C. §300gg, 29 U.S.C. §1181, et seq., and 42 U.S.C. §1320d, et seq.)
    a) Specifies privacy protections for patients' protected health information and generally prohibits a covered entity, which includes a health plan, health care provider, and health care clearing house, from using or disclosing protected health information except as specified or as authorized by the patient in writing. (45 C.F.R. Sec. 164.500 et seq.)
    b) Specifically authorizes the disclosure of protected health information without authorization for specified public health purposes, such as preventing or controlling disease, injury, or disability. (45 C.F.R. Sec. 164.512(d).)

2) Establishes tribal epidemiology centers to collect data, evaluate existing delivery systems, assist tribes and tribal organizations in identifying high-priority health status objectives and needed services, make recommendations to improve the health care delivery system, provide technical assistance to tribes and tribal organizations, provide disease surveillance, and assist tribes and tribal organizations to promote public health. (25 U.S.C. § 1621m)

Existing state law:

1) Requires DPH to establish a list of reportable diseases and conditions to be reported to DPH by local health officers (LHOs), as specified. (Health & Saf. Code § 120130.)
    a) Authorizes the list to include both communicable and non-communicable diseases and be modified at any time by DPH, after consultation with the California Conference of Local Health Officers.
    b) Requires health care providers, clinical laboratories, health facilities, clinics, or other health care settings, to report specified findings regarding reportable diseases or conditions to the LHO for the jurisdiction where the patient resides, as provided. (17 Cal. Code Reg. § 2500.)
    c) Requires LHOs to immediately report to DPH every discovered or known case or suspected case of a designated disease, and to make specified reports within 24 hours after investigation. (Health & Saf. Code § 120190.)

2) Requires health care providers, local health departments, and DPH to maintain the confidentiality of patient immunization information in the same manner as other medical record information with patient identification that they possess.

a) Subjects these providers, departments, and contracting agencies to civil action and criminal penalties for the wrongful disclosure of patient immunization information.
b) Require the use of patient immunization information to be limited to providing immunization services to the patient, facilitating provision of third-party payer payments for immunizations, and compiling and disseminating statistical information of immunization status of groups of patients or populations in California, without patient identifying information. (Health & Saf. Code § 120440.)

3) Recognizes tribal epidemiology centers as public health authorities pursuant to federal law. (Health & Saf. Code § 128766.)

This bill:

1) Requires DPH to enter into a data sharing agreement with the California Tribal Epidemiology Center (CTEC) for access to and use of the California Reportable Disease Information Exchange (CalREDIE) and the California Immunization Registry (CAIR) systems no later than January 1, 2023.

2) Prohibits CTEC from disclosing any information it receives pursuant to this section to any person or entity, except in response to a court order, search warrant, or subpoena, or as otherwise required or permitted by the federal medical privacy regulations under HIPAA.

COMMENTS

1. Stated need for the bill

The author writes:

> AB 2655 will advance health equity by allowing the California Tribal Epidemiology Center (CTEC) to access the California Reportable Disease Information Exchange (CalREDIE). This bill would allow the state's only Tribal epidemiology center to access up to the minute public health data through the CalREDIE system in order to inform and alert Tribal communities about important public health issues. During the COVID-19 pandemic, CTEC was forced to continuously submit lengthy requests for "snapshot" data from the CalREDIE system, similar to a research university. As we learned during the pandemic, in order for an epidemiology program to be effective at disease surveillance, data must be as close to 'real-time' as possible. Tribal communities were hit unnecessarily hard during the pandemic. CTEC is recognized in state and federal law as a public health authority and should be treated as such by

> CDPH. AB 2655 makes progress to ensure Tribal communities have the tools needed to protect themselves from future disease outbreaks.

2. This bill will provide CTEC access to CalREDIE and CAIR

This bill would provide CTEC access to CalREDIE and CAIR by requiring DPH to enter into a data sharing agreement with the CTEC for access to those systems no later than January 1, 2023. In order to ensure the protection and confidentiality of the information in these systems, the bill prohibits CTEC from disclosing any information received to any person or entity, except in response to a court order, search warrant, or subpoena, or as otherwise required or permitted by federal HIPPA regulations.

a. CalREDIE and CAIR

CalREDIE is a secure system implemented by DPH for the electronic reporting and monitoring of diseases in the state that is coordinated by CDPH's California Disease Emergency Response Program. According to DPH:

> The purpose of CalREDIE is to improve the efficiency of surveillance activities and the early detection of public health events through the collection of complete and timely surveillance information on a state wide basis. This allows for 24/7/365 reporting and receipt of notifiable conditions. Local Health Departments (LHDs) and CDPH have access to disease and laboratory reports in near real-time for disease surveillance, public health investigation, and case management activities.[1]

The Senate Health Committee notes:

> CalREDIE is used by all 61 of California's LHJs in some capacity, and 58 LHJs use the system for surveillance of all notifiable communicable diseases. Additionally, over 3200 facilities (including clinical and commercial labs, skilled nursing facilities, and schools) electronically submit reportable lab results through CalREDIE Electronic Laboratory Reporting. According to CDPH, although Los Angeles and San Diego Counties do not use CalREDIE for reporting their COVID-19 cases, CDPH captures this data through other mechanisms. In August 2020, the Newsom Administration announced that it would establish a separate data reporting system for COVID-19 cases following issues with CalREDIE that resulted in a backlog and delay in reporting.[2]

CAIR is a confidential and secure statewide immunization registry. Only authorized users can access CAIR, which include health care providers and plans, schools, county

[1] Cal. Dep. Of Pub. Health, CalREIDE (Feb. 2, 2022), https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/CalREDIE.aspx.
[2] Sen. Health Com. Analysis of AB 2655 (2021-2022 Reg. Sess.) as amended Apr. 21, 2022, p. 4.

welfare departments, foster care agencies, family child care homes, and child care facilities. (Health & Saf. Code § 120440(c).) Existing law requires health care providers, local health departments, and the DPH to maintain the confidentiality of patient immunization information in the same manner as any other medical record information containing patient identification in their possession. If any of these providers wrongfully disclose confidential information they can be subject to civil action and criminal penalties. (*Id.* (d).)

b. CTEC

CTEC was established in 2005 within the California Rural Indian Health Board, Inc. (CRIHB) to assist in the collection and interpretation of health information related to American Indian Alaska Natives (AIN) in California. It is one of 12 Indian Health Service (IHS) Division of Epidemiology and Disease Prevention (DEDP)-funded Tribal Epidemiology Centers (TECs), which provide epidemiologic support to each IHS region and frequently partner with local IHS area offices. The federal Indian Health Care Improvement Act (IHCIA) established TECs and required them to perform tribal public health activities, including data surveillance and analysis and supporting the public health activities of tribes. In 2010, Congress permanently reauthorized the IHCIA when it enacted the Patient Protection and Affordable Care Act. (25 U.S.C. § 1601 et. seq.) This resulted in TECs receiving the same public health authority designation as the CDC and state and local health departments and the authority to collect, receive, and disseminate public health data as necessary to respond to threats to the public health. California statute also recognizes that CTEC is a designated health authority. (*see* Health & Saf. Code § 128766(a).)

CRIHB, the sponsor of the bill, explains that in order for an epidemiology program to be successful in surveilling disease it needs as close as possible to real-time data. Having access to CalREIDE and CAIR is important for CTEC in controlling communicable disease and "to address the long-standing health disparities that lead to excessive risk of illness and death in AIAN communities." As CTEC does not currently have access to CalREIDE, during the COVID-19 pandemic it was forced to continuously submit lengthy requests for "snapshot" data from the CalREDIE system, similar to a research university, inhibiting CTEC's ability to access timely public health information to protect AIAN communities.

c. HIPPA

HIPAA, enacted in 1996, guarantees privacy protection for individuals with regards to specific health information. (Pub.L. 104–191, 110 Stat. 1936.) Generally, protected health information is any information held by a covered entity which concerns health status, provision of healthcare, or payment for healthcare that can be connected to an individual. HIPAA privacy regulations, often referred to as the Privacy Rule, require healthcare providers and organizations to develop and follow procedures that ensure

the confidentiality and security of personal health information when it is transferred, received, handled, or shared. HIPAA further requires reasonable efforts when using, disclosing, or requesting protected health information, to limit disclosure of that information to the minimum amount necessary to accomplish the intended purpose. There are exceptions under the Privacy Rule that allow the disclosure of protected health information without authorization. One of these exceptions is for disclosure by covered entities for public health activities, including to public health authorities who are legally authorized to receive reports for the purpose of preventing or controlling disease. (45 C.F.R. Sec. 164.512(d).)

d. Concerns from DPH

The Committee was contacted by DPH regarding concerns about their ability to implement the bill. The concerns mainly focused on whether they have the ability to share the information pursuant to other provisions of existing law, such as the Information Practices Act. DPH did not proved the Committee with any suggested amendments. The author has informed the Committee that they are working with DPH to address their concerns.

3. Statements in support

The California Rural Indian Health Board, Inc., sponsor of the bill, writes:

> […] AB 2655 will allow for meaningful and timely public health interventions among vulnerable AIAN populations in California. Access to these databases is especially important for communicable disease control and to address the long-standing health disparities that lead to excessive risk of illness and death in AIAN communities.
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> CTEC is one of twelve Indian Health Service (IHS) Tribal Epidemiology Centers which partners with local IHS Area and state offices to provide epidemiologic support to Tribal communities. CTEC is authorized by the federal Indian Health Care Improvement Act as a public health authority and is acknowledged as such in Section 128766 of the California Health and Safety Code.
>
> Historically, Tribal communities have been devastated by communicable diseases. This issue persists today as it relates to COVID-19, Human Immunodeficiency Virus, tuberculosis, and hepatitis. AB 2655 would grant CTEC access to the CalREDIE and CAIR to relay real-time updates to Tribal communities regarding threats from communicable diseases. AB 2655 will improve health equity in Tribal communities and help protect against public health threats. […]

SUPPORT

California Rural Indian Health Board, Inc. (sponsor)

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: AB 1797 (Akilah Weber, 2022) would, among other things, additionally authorize, , until January 1, 2026, schools, childcare facilities, family childcare homes, and county human services agencies to use the specified immunization information for the COVID-19 public health emergency, to perform immunization status assessments of pupils, adults, and clients to ensure health and safety. AB 1797 is currently pending in the Senate Health Committee.

Prior Legislation: AB 1233 (Chesbro, Ch. 306, Stats. 2013) authorized a tribe, a tribal organization, or a subgroup of such to access the California Healthcare Eligibility, Enrollment, and Retention System (CalHEERS) to facilitate Medi-Cal applications.

PRIOR VOTES:

Senate Health Committee (Ayes 9, Noes 0)
Assembly Floor (Ayes 73, Noes 0)
Assembly Appropriations Committee (Ayes 15, Noes 0)
Assembly Health Committee (Ayes 13, Noes 0)

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