

On The Alert!

| | |
|-----------------------------|---------------------------------------------------------|
| Date: | April 1, 2017 |
| Attention: | ASCIP Members |
| Affected Department: | Day Care Center; Students/Volunteers Serving in Centers |
| Applicability: | CCDs and K-12 Districts |

SB 792 AND DAY CARE CENTER VACCINATIONS

POTENTIALLY IMPACTED ASCIP MEMBERS

Effective September 1, 2016, school districts and community college districts that maintain day care centers for the children of their employees, students, volunteers, and other potential clients are subject to new vaccination requirements for day care centers and family day care homes under SB 792. In addition, community college districts or others whose students may serve as interns or volunteers at day care centers and family day care homes may be subject to ensuring that their students meet these new vaccination requirements for day care centers and family day care homes.

WHAT IS REQUIRED

Under SB 792, day care centers and family day care homes, as part of their licensure requirements, must maintain vaccination records for their employees and volunteers for influenza, pertussis, and measles as outlined below. Failure to maintain accurate records will be treated like any other violation of licensure requirements.

DISTRICT COSTS

All vaccines required in SB 792 are covered at no cost by insurance plans under the Affordable Care Act. Insured employees, students, and volunteers can contact their primary care physician to receive the vaccines with no co-pay, regardless of any minimums or maximums in their plans. They can be vaccinated in a variety of ways as follows:

- By their primary care physician
- By a local health department:
<http://www.cdph.ca.gov/programs/immunize/pages/californialocalhealthdepartments.aspx>
- By another private healthcare provider: <http://www.vaccines.gov/getting/where/>

GRACE PERIOD

The new law takes effect on September 1, 2016. It allows for a 30-day period of conditional employment or service. In other words, a person has 30 days after they begin working or volunteering to comply.

VACCINATIONS REQUIRED

Influenza

Annual Requirement: Flu viruses change each year, which is why an annual vaccine is required. The vaccine is usually available in the fall, and early vaccination is recommended to prevent the spread of the flu. Under this bill, employees and (student/intern) volunteers will need to show that they have been vaccinated between August 1 and December 1 of each year.

Opting out: Employees/volunteers may decline to receive the influenza vaccine.

Record Keeping: Districts must have ONE of the following records for each employee or volunteer:

- A copy of an immunization record for influenza dated between August 1 and December 1 of each year
- A statement from the employee/volunteer's physician that there is a medical reason not to vaccinate the employee/volunteer
- A statement from the employee/volunteer's physician that the employee/volunteer is already immune to influenza
- A signed statement from the employee/volunteer stating that they have declined to be vaccinated against the flu

Pertussis (Whooping Cough)

Record Keeping: Districts must have ONE of the following records for each employee and volunteer:

- A copy of an immunization record for pertussis
- A statement from the employee/volunteer's physician that there is a medical reason not to vaccinate the employee/volunteer
- A statement from the employee/volunteer's physician that the employee/volunteer is already immune to pertussis

Measles

Record Keeping: Districts must have ONE of the following records for each employee and volunteer:

- A copy of an immunization record for measles
- A statement from the employee/volunteer's physician that there is a medical reason not to vaccinate the employee/volunteer
- A statement from the employee/volunteer's physician that the employee/volunteer is already immune to measles
- Proof that the employee/volunteer was born before 1957 (per the Advisory Council on Immunization Practices, "adults born before 1957 are generally considered immune to measles and mumps.").

For employee record keeping, vaccination records can be kept as part of an employee's confidential personnel records. For students/interns, the [California Immunization Registry](#) (CAIR) be used by Districts to capture and store the vaccination requirements' records for their impacted students/volunteers as a HIPAA-compliant means of tracking and storing these records.

HOW CAN ASCIP ASSIST YOUR DISTRICT?

If you need additional help, please contact ASCIP's Risk Services staff at (562) 404-8029 to discuss your risk management or loss control needs!

Please contact your ASCIP risk services consultant at (562) 404-8029 to discuss further.

ATTACHMENT A**Senate Bill No. 792**

An act to amend Sections 1597.055 and 1597.54 of, and to add Sections 1596.7995 and 1597.622 to, the Health and Safety Code, relating to day care facilities.

SB 792, Mendoza. Day care facilities: immunizations: exemptions.

Existing law, the California Child Day Care Facilities Act, provides for the licensure and regulation of day care centers, as defined, and family day care homes, as defined, by the State Department of Social Services. A violation of the act is a crime. Existing law requires a child to be immunized prior to admission to a day care center or family day care home. Existing law authorizes an exemption from those provisions for medical reasons or because of personal beliefs, if specified forms are submitted to the day care center or family day care home. Existing law requires an applicant for licensure as a family day care home to present evidence of a current tuberculosis clearance for any adult in the home during the time that children are under care.

This bill, commencing September 1, 2016, would prohibit a person from being employed or volunteering at a day care center or a family day care home if he or she has not been immunized against influenza, pertussis, and measles. The bill would specify circumstances under which a person would be exempt from the immunization requirement, based on medical safety, current immunity, declining the influenza vaccination, or the date upon which he or she was hired, as specified. The bill would require a day care center or a family day care home to maintain documentation of the required immunizations or exemptions from immunization in the employee's or volunteer's personnel record. The bill would make conforming changes to provisions that set forth qualifications for day care center teachers and applicants for licensure as a family day care home. The bill would provide that a violation of these provisions would not be subject to a crime. The bill would require any person hired as a teacher in a day care center to present evidence of a current tuberculosis clearance, as specified.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1596.7995 is added to the Health and Safety Code, to read:

1596.7995.

(a)

- (1) Commencing September 1, 2016, a person shall not be employed or volunteer at a day care center if he or she has not been immunized against influenza, pertussis, and measles. Each employee and volunteer shall receive an influenza vaccination between August 1 and December 1 of each year.
- (2) If a person meets all other requirements for employment or volunteering, as applicable, but needs additional time to obtain and provide his or her immunization records, the person may be employed or volunteer conditionally for a maximum of 30 days upon signing and submitting a written statement attesting that he or she has been immunized as required.

(b) A person is exempt from the requirements of this section only under any of the following circumstances:

- (1) The person submits a written statement from a licensed physician declaring that because of the person's physical condition or medical circumstances, immunization is not safe.
- (2) The person submits a written statement from a licensed physician providing that the person has evidence of current immunity to the diseases described in subdivision (a).
- (3) The person submits a written declaration that he or she has declined the influenza vaccination. This exemption applies only to the influenza vaccine.
- (4) The person was hired after December 1 of the previous year and before August 1 of the current year. This exemption applies only to the influenza vaccine during the first year of employment or volunteering.

(c) The day care center shall maintain documentation of the required immunizations or exemptions from immunization, as set forth in this section, in the person's personnel record that is maintained by the day care center.

(d) Section 1596.890 does not apply to a violation of this section.

(e) For purposes of this section, "volunteer" means any nonemployee who provides care and supervision to children in care.

SEC. 2. Section 1597.055 of the Health and Safety Code is amended to read:

1597.055.

- (a) Notwithstanding any other educational requirements, a person may be hired as a teacher in a day care center if he or she satisfies all of the following conditions:
- (1) Is 18 years of age or older.
 - (2) Possesses a regional occupation program certificate of training in child care occupations issued by a regional occupational program which is accredited by the Western Association of Schools and Colleges.
 - (3) Has completed at least 95 hours of classroom instruction in child care and development and child care occupations and at least 150 hours in supervised field experience in a licensed day care center or comparable group child care program.
 - (4) Commencing September 1, 2016, has provided evidence of current immunity or exemption from immunity, as described in Section 1596.7995.
 - (5) Has provided evidence of a current tuberculosis clearance, as described in subdivision (g) of Section 101216 of Title 22 of the California Code of Regulations. This requirement may be satisfied by a current certificate, as defined in subdivision (f) of Section 121525, that indicates freedom from infectious tuberculosis as set forth in Section 121525.
- (b) Subsequent to being hired pursuant to subdivision (a), a teacher shall make satisfactory progress towards meeting the educational requirement for a fully qualified teacher, as specified in departmental regulations. For purposes of this section, "satisfactory progress" shall mean completion, with passing grades, of a minimum of two units each semester or the equivalent number of units each quarter until the educational requirement is satisfied. Six of the required semester or equivalent number of quarter units of early childhood education from an accredited university or college shall be completed during the next two consecutive regular semesters or equivalent quarters.
- (c) A teacher hired pursuant to this section shall not be exempt from satisfying any other noneducation requirements imposed by law on teachers in day care centers and shall have onsite supervision by a fully qualified teacher until six of the units specified in subdivision (b) are completed.

SEC. 3. Section 1597.54 of the Health and Safety Code is amended to read:

1597.54.

All family day care homes for children, shall apply for a license under this chapter, except that any home which on June 28, 1981, had a valid and unexpired license to operate as a family day care home for children under other provisions of law shall be deemed to have a license under this chapter for the unexpired term of the license at which time a new license may be issued upon fulfilling the requirements of this chapter.

An applicant for licensure as a family day care home for children shall file with the department, pursuant to its regulations, an application on forms furnished by the department, which shall include, but not be limited to, all of the following:

- (a) A brief statement confirming that the applicant is financially secure to operate a family day care home for children. The department shall not require any other specific or detailed financial disclosure.
- (b)
- (1) Evidence that the small family day care home contains a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal under subdivision (d) of Section 1597.45, or evidence that the large family day care home meets the standards established by the State Fire Marshal under subdivision (d) of Section 1597.46.
 - (2) Evidence satisfactory to the department that there is a fire escape and disaster plan for the facility and that fire drills and disaster drills will be conducted at least once every six months. The documentation of these drills shall be maintained at the facility on a form prepared by the department and shall include the date and time of the drills.
- (c) The fingerprints of any applicant of a family day care home license, and any other adult, as required under subdivision (b) of Section 1596.871.
- (d) Evidence of a current tuberculosis clearance, as defined in regulations that the department shall adopt, for any adult in the home during the time that children are under care. This requirement may be satisfied by a current certificate, as defined in subdivision (f) of Section 121525, that indicates freedom from infectious tuberculosis as set forth in Section 121525.
- (e) Commencing September 1, 2016, evidence of current immunity or exemption from immunity, as described in Section 1597.622, for the applicant and any other person who provides care and supervision to the children.
- (f) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and Chapter 3.4 (commencing with Section 1596.70) and the regulations adopted pursuant to those chapters.

Please contact your ASCIP risk services consultant at (562) 404-8029 to discuss further.

- (g) Evidence satisfactory to the department that the applicant and all other persons residing in the home are of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1596.871, employment history, and character references.
- (h) Failure of the applicant to cooperate with the licensing agency in the completion of the application shall result in the denial of the application. Failure to cooperate means that the information described in this section and in regulations of the department has not been provided, or not provided in the form requested by the licensing agency, or both.
- (i) Other information as may be required by the department for the proper administration and enforcement of the act.

SEC. 4. Section 1597.622 is added to the Health and Safety Code, to read:

1597.622.

- (a)
 - (1) Commencing September 1, 2016, a person shall not be employed or volunteer at a family day care home if he or she has not been immunized against influenza, pertussis, and measles. Each employee and volunteer shall receive an influenza vaccination between August 1 and December 1 of each year.
 - (2) If a person meets all other requirements for employment or volunteering, as applicable, but needs additional time to obtain and provide his or her immunization records, the person may be employed or volunteer conditionally for a maximum of 30 days upon signing and submitting a written statement attesting that he or she has been immunized as required.
- (b) A person is exempt from the requirements of this section only under any of the following circumstances:
 - (1) The person submits a written statement from a licensed physician declaring that because of the person's physical condition or medical circumstances, immunization is not safe.
 - (2) The person submits a written statement by a licensed physician providing that the person has evidence of current immunity to the diseases described in subdivision (a).
 - (3) The person submits a written declaration that he or she has declined the influenza vaccination. This exemption applies only to the influenza vaccine.
 - (4) The person was hired after December 1 of the previous year and before August 1 of the current year. This exemption applies only to the influenza vaccine during the first year of employment or volunteering.
- (c) The family day care home shall maintain documentation of the required immunizations or exemptions from immunization, as set forth in this section, in the person's personnel record that is maintained by the family day care home.
- (d) For purposes of this section, "volunteer" means any nonemployee who provides care and supervision to children in care.