

RESOLUTION 12-01-2022

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Health and Safety code sections 120325, 120335, and 120338, to read as follows:

1 § 120325

2 In enacting this chapter, but excluding Section 120380, and in enacting Sections
3 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

4 (a) A means for the eventual achievement of total immunization of appropriate age
5 groups against the following childhood diseases:

6 (1) Diphtheria.

7 (2) Hepatitis B.

8 (3) Haemophilus influenzae type b.

9 (4) Measles.

10 (5) Mumps.

11 (6) Pertussis (whooping cough).

12 (7) Poliomyelitis.

13 (8) Rubella.

14 (9) Tetanus.

15 (10) Varicella (chickenpox).

16 (11) SARS-CoV-2 (COVID-19).

17 (4+12) Any other disease deemed appropriate by the department, taking into
18 consideration the recommendations of the Advisory Committee on Immunization Practices of the
19 United States Department of Health and Human Services, the American Academy of Pediatrics,
20 and the American Academy of Family Physicians.

21 (b) That the persons required to be immunized be allowed to obtain immunizations from
22 whatever medical source they so desire, subject only to the condition that the immunization be
23 performed in accordance with the regulations of the department and that a record of the
24 immunization is made in accordance with the regulations.

25 (c) Exemptions from immunization for medical reasons.

26 (d) For the keeping of adequate records of immunization so that health departments,
27 schools, and other institutions, parents or guardians, and the persons immunized will be able to
28 ascertain that a child is fully or only partially immunized, and so that appropriate public agencies
29 will be able to ascertain the immunization needs of groups of children in schools or other
30 institutions.

31 (e) Incentives to public health authorities to design innovative and creative programs that
32 will promote and achieve full and timely immunization of children.

33
34 § 120335

35 (a) As used in this chapter, “governing authority” means the governing board of each
36 school district or the authority of each other private or public institution responsible for the
37 operation and control of the institution or the principal or administrator of each school or
38 institution.

39 (b) The governing authority shall not unconditionally admit any person as a pupil of any
40 private or public elementary or secondary school, child care center, day nursery, nursery school,
41 family day care home, or development center, unless, prior to his or her first admission to that
42 institution, he or she has been fully immunized. The following are the diseases for which
43 immunizations shall be documented:

- 44 (1) Diphtheria.
- 45 (2) Haemophilus influenzae type b.
- 46 (3) Measles.
- 47 (4) Mumps.
- 48 (5) Pertussis (whooping cough).
- 49 (6) Poliomyelitis.
- 50 (7) Rubella.
- 51 (8) Tetanus.
- 52 (9) Hepatitis B.
- 53 (10) Varicella (chickenpox).
- 54 (11) COVID-19.

55 ~~(11)~~ Any other disease deemed appropriate by the department, taking into
56 consideration the recommendations of the Advisory Committee on Immunization Practices of the
57 United States Department of Health and Human Services, the American Academy of Pediatrics,
58 and the American Academy of Family Physicians.

59 (c) Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a
60 condition by which the governing authority shall admit or advance any pupil to the 7th grade
61 level of any private or public elementary or secondary school.

62 (d) The governing authority shall not unconditionally admit or advance any pupil to the
63 7th grade level of any private or public elementary or secondary school unless the pupil has been
64 fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age.

65 (e) The department may specify the immunizing agents that may be utilized and the
66 manner in which immunizations are administered.

67 (f) This section does not apply to a pupil in a home-based private school or a pupil who is
68 enrolled in an independent study program pursuant to Article 5.5 (commencing with Section
69 51745) of Chapter 5 of Part 28 of the Education Code and does not receive classroom-based
70 instruction.

71 (g)

72 (1) A pupil who, prior to January 1, 2016, submitted a letter or affidavit on file at a
73 private or public elementary or secondary school, child day care center, day nursery, nursery
74 school, family day care home, or development center stating beliefs opposed to immunization
75 shall be allowed enrollment to any private or public elementary or secondary school, child day
76 care center, day nursery, nursery school, family day care home, or development center within the
77 state until the pupil enrolls in the next grade span.

78 (2) For purposes of this subdivision, "grade span" means each of the following:

- 79 (A) Birth to preschool.
- 80 (B) Kindergarten and grades 1 to 6, inclusive, including transitional kindergarten.
- 81 (C) Grades 7 to 12, inclusive.

82 (3) Except as provided in this subdivision, on and after July 1, 2016, the governing
83 authority shall not unconditionally admit to any of those institutions specified in this subdivision

84 for the first time, or admit or advance any pupil to 7th grade level, unless the pupil has been
85 immunized for his or her age as required by this section.

86 (h) This section does not prohibit a pupil who qualifies for an individualized education
87 program, pursuant to federal law and Section 56026 of the Education Code, from accessing any
88 special education and related services required by his or her individualized education program.
89

90 § 120338

91 ~~Notwithstanding Sections 120325 and 120335, any immunizations deemed appropriate~~
92 ~~by the department pursuant to paragraph (11) of subdivision (a) of Section 120325 or paragraph~~
93 ~~(11) of subdivision (b) of Section 120335, may be mandated before a pupil's first admission to~~
94 ~~any private or public elementary or secondary school, child care center, day nursery, nursery~~
95 ~~school, family day care home, or development center, only if exemptions are allowed for both~~
96 ~~medical reasons and personal beliefs.~~

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Women Lawyers Association of Los Angeles

STATEMENT OF REASONS

The Problem: Current law identifies a list of diseases against which children must be vaccinated to attend school. After the measles outbreak a few years ago, the law changed to eliminate the personal/religious belief exemption to these vaccines. Current law does not include the coronavirus vaccine in the list of vaccines against which children must be vaccinated and currently, people are allowed to submit personal/religious belief exemptions for the coronavirus vaccine.

The Solution: This resolution would add the coronavirus vaccine to the list of diseases against which children must be vaccinated. It would also not allow a person to claim a personal or religious belief exemption from the vaccine. This resolution will protect the health of children and the people with whom they come into contact. There is no reason the coronavirus vaccine should be treated any differently from the other vaccines children are required to have to attend school.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

SB 871 (2022); SB 277 (2015-2016 Reg.Sess.) enacted into law in 2015.

AUTHOR AND/OR PERMANENT CONTACT

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RESOLUTION 12-02-2022

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Welfare and Institutions Code section 4691, to read as follows:

1 § 4691

2 (a) The Legislature reaffirms its intent that community-based day programs be planned and
3 provided as part of a continuum of services to enable persons with developmental disabilities to
4 approximate the pattern of everyday living available to people of the same age without disabilities.
5 The Legislature further intends that standards be developed to ensure high-quality services and
6 availability of staff, and that equitable rate setting procedures based upon those standards be
7 established, maintained, and revised, as necessary. The Legislature intends that rate setting
8 procedures be developed for all community-based day programs, which include adult development
9 centers, activity centers, infant day programs, behavior management programs, social recreational
10 programs, and independent living programs in a manner that includes payment for supervision of
11 therapy assistants which the legislature has determined is essential for training and quality of care
12 due to ongoing shortages of therapists.

13 (b) For the purpose of ensuring that regional centers may secure high-quality services for
14 persons with developmental disabilities, the State Department of Developmental Services shall
15 promulgate regulations establishing program standards and an equitable process for setting rates of
16 state payment for community-based day programs. These regulations shall include, but are not limited
17 to, all of the following:

18 (1) The standards and requirements related to the operation of the program including, but not
19 limited to, staff qualifications, staff-to-client ratios, client entrance and exit criteria, program design,
20 program evaluation, program and client records and documentation, client placement, and personnel
21 requirements and functions that comply with all laws and compensate providers for supervision of
22 assistants when supervision of assistants is required by law.

23 (2) The allowable cost components of the program including salary and wages, staff benefits,
24 operating expenses, and management organization costs where two or more programs are operated
25 by a separate and distinct corporation or entity.

26 (3) The rate determination processes for establishing rates, based on the allowable costs of the
27 allowable cost components. Different rate determination processes may be developed for establishing
28 rates for new and existing programs, and for the initial and subsequent years of implementation of
29 the regulations. The processes shall include, but are not limited to, all of the following:

30 (A) The procedure for identification and grouping of programs by type of day program and
31 approved staff-to-client ratio, provided staff-to-client ratio shall be no less than required to comply
32 with current laws.

33 (B) The requirements for an identification of the program, cost, and other information, if any,
34 which the program is required to submit to the department or the regional center, the consequences,
35 if any, for failure to do so, and the timeframes and format for submission and review.

36 (C) The rate setting methodology.

37 (D) A procedure for adjusting rates as a result of anticipated and unanticipated program
38 changes and fiscal audits of the program and a procedure for appealing rates, including the timeframes
39 for the program to request an adjustment or appeal, and for the department to respond.

40 (E) A procedure for increasing established rates and the allowable range of rates due to cost-
41 of-living adjustments.

42 (F) A procedure for increasing established rates as a result of Budget Act appropriations made
43 pursuant to the rate setting methodology established pursuant to Section 4691.5 and subdivision (c)
44 of this section.

45 The department shall develop these regulations in consultation with representatives from
46 organizations representing the developmental services system as determined by the department. The
47 State Council on Developmental Disabilities, and other organizations representing regional centers,
48 providers, and clients shall have an opportunity to review and comment upon the proposed regulations
49 prior to their promulgation. The department shall promulgate these regulations for all community-
50 based day programs by July 1, 1990.

51 (c) Upon the promulgation of regulations pursuant to subdivision (b), and pursuant to Section
52 4691.5, and by September 1 of each year thereafter, the department shall establish rates pursuant to
53 the regulations including rates and staff:client ratios that allow for reimbursement to providers for
54 supervision of therapy assistants. Rate increases during the 1990-91 and 1991-92 fiscal years shall be
55 limited to those specified in subdivision (b). For the 1992-93 fiscal year and all succeeding fiscal
56 years, any increases proposed during those years in the rates of reimbursement established pursuant
57 to the regulations, except for rate increases due to rate appeals and rate adjustments based on
58 unanticipated program changes, shall be subject to the appropriation of sufficient funds in the Budget
59 Act, for those purposes, to fully provide the proposed increase to all eligible programs for the entire
60 fiscal year including reimbursement for supervision of assistants. If the funds appropriated in the
61 Budget Act are not sufficient to fully provide for the proposed increase in the rates of reimbursement
62 for all eligible programs for the entire fiscal year, the proposed increase shall be limited to the level
63 of funds appropriated. The increases proposed in the rates of reimbursement shall be reduced
64 equitably among all eligible providers in accordance with funds appropriated and the eligible
65 programs shall be reimbursed at the reduced amount for the entire fiscal year.

66 (d) Using the reported costs of day programs reimbursed at a permanent rate and the standards
67 and rate setting processes promulgated pursuant to subdivision (b) as a basis, the department shall
68 report to the Legislature as follows:

69 (1) By April 15, 1993, and every odd year thereafter, the difference between permanent rates
70 for existing programs and the rates of those programs based upon their allowable costs and client
71 attendance, submitted pursuant to the regulations specified in subdivision (b). In reporting the
72 difference, the department shall also identify the amount of the difference associated with programs
73 whose rates are above the allowable range of rates, which is available for increasing the rates of
74 programs whose rates are below the allowable range, to within the allowable range, and any other
75 pertinent cost or rate information which the department deems necessary.

76 (2) By April 15, 1994, and every even year thereafter, the level of funding, if any, which was
77 not appropriated to reimburse providers at the proposed rates reported the prior fiscal year pursuant
78 to paragraph (1), and any other pertinent cost or rate information which the department deems
79 necessary.

80 (3) The April 15, 1996, report pursuant to paragraph (2) shall be prepared jointly by the
81 department and organizations representing community-based day program providers, as determined
82 by the department. That report shall also include a review of the rate setting process and
83 recommendations, if any, for its modification.

84 (e) Rates established by the department pursuant to subdivision (b) are exempt from the
85 provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
86 Government Code.

87 (f) The department shall ensure that the regional centers monitor compliance with program
88 standards.

(Proposed new language underlined; language to be deleted stricken)

PROPOSER: Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem:

Current law does not provide a ratio that will allow for supervision of licensed speech therapy assistants, physical therapy assistants and occupational therapy assistants. There is a nationwide shortage of these specialists and assistants are frequently used. This shortage is further exacerbated by the fact that therapy is required to be provided in the native language of the patient. Service providers have been audited and required to repay tens of thousands of dollars that they cannot afford to repay for assistant supervision because the maximum ratio that Regional Centers is authorized by law to pay is currently 1:1 for individual therapy for pediatrics under current law. The cost is tens of thousands of dollars a year to each vendor in each category of service provided which is currently being billed to and paid by Regional Centers, but then when they audit they are asking for refunds which is a huge problem for the industry providers. In addition, not all vendors are being audited, but the ones who are, are choosing not to continue providing services for the Regional Centers making it difficult to find affordable services.

The Solution: The amendment will allow Regional Centers to permit a 2:1 ratio when required to provide assistants in order to meet quality of service standards – i.e. making sufficient numbers of therapists available to meet demand for such services, such as when shortages of service providers arise and assistants are being used who require supervision. It will also lighten the burden on service providers and make more service providers available through Regional Centers, which provide cost assistance to patients, because providers are currently being audited and required to eat the cost of required supervision, causing them to discontinue working with the Regional Centers, because it is too expensive to bear that cost when the cost cannot be passed on to the patient.

This resolution eliminates inconsistencies in existing law. The laws currently contradict each other. One law requires quality of care and another withholds the means of providing quality of care, by prohibiting payment for required supervision of assistants. The revisions proposed by this resolution close the gap between different laws that should be working together, not against each other.

IMPACT STATEMENT

CURRENT OR PRIOR RELATED LEGISLATION

None known.

AUTHOR AND/OR PERMANENT CONTACT

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RESOLUTION 12-03-2022

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Education Code Section 35292.6, to read as follows:

- 1 § 35292.6
2 (a) A public school maintaining any combination of classes from grade ~~3~~ 6 to grade 12,
3 inclusive, ~~that meets the 40 percent pupil poverty threshold required to 33 operate a schoolwide~~
4 ~~program pursuant to Section 6314(a)(1)(A) of Title 20 of the United States Code shall stock at~~
5 ~~least 50 percent of the school's restrooms with feminine hygiene products at all times. should~~
6 ~~provide feminine hygiene in all elementary school bathrooms at no charge. School counselors or~~
7 ~~school nurses are to be available to provide counseling to students, if requested.~~
8 ~~(b) A public school described in subdivision (a) shall not charge for any menstrual-~~
9 ~~products provided to pupils, including, but not limited to, feminine hygiene products.~~
10 (b)e For purposes of this section, "feminine hygiene products" means tampons and
11 sanitary napkins for use in connection with the menstrual cycle.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem: Education Code section 35292.6 requires a public school maintaining any combination of classes from grade 6 to grade 12, inclusive, that meets a 40% pupil poverty threshold as specified in federal law to stock 50% of the school's restrooms with feminine hygiene products, as defined. Currently, children are experiencing their menstrual cycles at a much younger age than previous generations, in some cases as young as ages 8 and 9 and the existing law, which only covers grades 6 to 12, does not cover that biological reality. Because existing law requires those specified schools to only stock 50% of the restrooms with feminine hygiene products, students on those campuses may have to make long treks to find a bathroom adequately supplied with feminine hygiene products, which can cause embarrassment to those students as well as loss in academic instruction. In addition, only requiring schools that meet the specified poverty level to provide the products and in only 50% of the restrooms establishes an arbitrary threshold that does not equally recognize the dignity of any student, regardless of the school's poverty classification, who may need the products during the school day. All schools should be required to provide feminine hygiene products to bathrooms serving grades 3 through 12. Furthermore, school nurses or counselors should be available to provide information and guidance to students who may be experiencing fear, anxiety or embarrassment.

The Solution: This Resolution addresses the need to serve a younger student population and covers all socio-economic levels. The proposed legislation would provide feminine hygiene products during the school day to all students in need of them from grades 3 through 12, regardless of the

school's classification of poverty level status.

IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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