

AMENDED IN ASSEMBLY MARCH 29, 2012

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2009**

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**Introduced by Assembly Member Galgiani**

February 23, 2012

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An act to amend Section 104900 of the Health and Safety Code, relating to communicable disease.

LEGISLATIVE COUNSEL'S DIGEST

AB 2009, as amended, Galgiani. Communicable disease: influenza vaccinations.

Under existing law, the State Department of Public Health administers various programs for the protection of public health. The department provides a biennial report to the Legislature on the immunization status of young children in California.

Existing law requires the State Department of Public Health to provide appropriate flu vaccine to local governmental or private nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations in the order of priority first for all persons 60 years of age or older in this state and then to any other high-risk groups identified by the United States Public Health Service. The department and the California Department of Aging are required to prepare, publish, and disseminate information regarding the availability of the vaccine and the effectiveness of the vaccine in protecting the health of older persons.

This bill would include persons who are not more than 18 years of age among those who have priority to receive the vaccine. The bill

would make findings and declarations regarding the transmission of influenza by children to adults and the elderly.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and declares all of  
2 the following:

3 ~~(a) School-based influenza vaccine programs help protect public~~  
4 ~~health by reducing the spread of influenza in the community.~~

5 ~~(b) Pandemic preparedness is enhanced through the~~  
6 ~~implementation of a school-located influenza vaccination program~~  
7 ~~in the state.~~

8 (e)

9 (a) The federal Centers for Disease Control and Prevention  
10 (CDC) recommend annual seasonal influenza vaccination for all  
11 persons six months of age and older.

12 (d)

13 (b) Current law related to prioritization for influenza vaccines  
14 is outdated and needs to be updated to reflect current CDC  
15 recommendations.

16 (e)

17 (c) Children have the highest rates of influenza infection and  
18 schoolaged children are the major vectors for influenza  
19 transmission that spread the virus to adults and the elderly in the  
20 community.

21 (f)

22 (d) Eligible low-income and uninsured children can access  
23 vaccine at no cost through the federally funded Vaccines for  
24 Children (VFC) Program.

25 ~~(g) Currently, school districts are restricted when seeking~~  
26 ~~reimbursement from Medi-Cal for influenza vaccinations~~  
27 ~~administered in schools.~~

28 ~~(h) Currently, limits exist on the ability of a school district to~~  
29 ~~become a VFC provider in order to obtain influenza vaccine.~~

30 (i) It is, therefore, the intent of the Legislature that the State  
31 Department of Health Care Services make it a priority to amend  
32 California's Medicaid State Plan Amendment to accomplish  
33 various goals to enhance Medi-Cal services provided at schoolsites,

1 including a mechanism to defray the cost of school-based influenza  
2 vaccine programs.

3 (j) ~~In addition, it is the intent of the Legislature that the State~~  
4 ~~Department of Public Health develop a plan, in coordination with~~  
5 ~~local public health officers, to authorize school districts to receive~~  
6 ~~influenza vaccine through the federally funded VFC Program.~~

7 SEC. 2. Section 104900 of the Health and Safety Code is  
8 amended to read:

9 104900. (a) The department shall provide appropriate flu  
10 vaccine to local governmental or private nonprofit agencies at no  
11 charge in order that the agencies may provide the vaccine, at a  
12 minimal cost, at accessible locations in the order of priority first,  
13 for all persons who are not more than 18 years of age and persons  
14 who are at least 60 years of age in this state and then to any other  
15 high-risk groups identified by the United States Public Health  
16 Service. The department and the California Department of Aging  
17 shall prepare, publish, and disseminate information regarding the  
18 availability of the vaccine and the effectiveness of the vaccine in  
19 protecting the health of older persons.

20 (b) The department may provide appropriate pneumonia vaccine  
21 to local governmental or private nonprofit agencies at no charge  
22 in order that the agencies may provide the vaccine, at a minimal  
23 cost, at accessible locations for groups identified as high risk by  
24 the United States Public Health Service.

25 (c) The program shall be designed to ~~utilize~~ *use* voluntary  
26 assistance from public or private sectors in administering the  
27 vaccines. However, local governmental or private nonprofit  
28 agencies may charge and retain a fee not exceeding two dollars  
29 (\$2) per person to offset administrative operating costs.

30 (d) Except when the department determines that it is not feasible  
31 to ~~utilize~~ *use* federal funds due to excessive administrative costs,  
32 the department shall seek and ~~utilize~~ *use* available federal funds  
33 to the maximum extent possible for the cost of the vaccine, the  
34 cost of administering the vaccine, and the minimal fee charged  
35 under this section, including reimbursement under the Medi-Cal  
36 program for persons eligible therefor to the extent permitted by  
37 federal law.

38 (e) Administration of the vaccine shall be performed ~~either~~ by  
39 a physician, a registered nurse, or a licensed vocational nurse acting  
40 within the scope of their professional practice acts. The physician

1 under whose direction the registered nurse or a licensed vocational  
2 nurse is acting shall require the nurse to satisfactorily demonstrate  
3 familiarity with (1) contraindication for the administration of such  
4 immunizing agents, (2) treatment of possible anaphylactic  
5 reactions, and (3) the administration of treatment; and reactions  
6 to such immunizing agents.

7 (f) ~~No~~A private nonprofit volunteer agency whose involvement  
8 with an immunization program governed by this section is limited  
9 to the provision of a clinic site or promotional and logistical support  
10 pursuant to subdivision (c), or any employee or member thereof,  
11 shall *not* be liable for any injury caused by an act or omission in  
12 the administration of the vaccine or other immunizing agent to a  
13 person 60 years of age or older or to members of high-risk groups  
14 identified by the United States Public Health Service, if the  
15 immunization is performed pursuant to this section in conformity  
16 with applicable federal, state, or local governmental standards and  
17 the act or omission does not constitute willful misconduct or gross  
18 negligence. As used in this subdivision, “injury” includes the  
19 residual effects of the vaccine or other immunizing agent. It is the  
20 intent of the Legislature in adding this subdivision to affect only  
21 the liability of private; nonprofit volunteer agencies and their  
22 members that are not health facilities as defined in Section 1250.

23 (g) ~~Nothing in this~~ This section shall *not* be construed to require  
24 physical presence of a directing or supervising physician, or the  
25 examination by a physician of persons to be tested or immunized.