

Assembly Bill No. 221

CHAPTER 550

An act to amend Sections 1241 and 2058 of the Business and Professions Code, and to add Section 1596.797 to the Health and Safety Code, relating to health.

[Approved by Governor September 28, 1997. Filed
with Secretary of State September 29, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 221, Goldsmith. Health: blood glucose monitoring.

Existing law regulates the practice of clinical laboratory technology and exempts from that regulation certain clinical laboratories, and persons performing clinical laboratory tests or examinations in these clinical laboratories.

This bill would also exempt those clinical laboratories that have registered with the State Department of Health Services to perform blood glucose testing for the purpose of monitoring a minor child diagnosed with diabetes when the person performing the test has been entrusted with the care and control of the child by the child's parent or legal guardian and certain requirements are satisfied. The bill would require any place where blood glucose testing is performed pursuant to these provisions to register, and it would exempt registrants pursuant to these provisions from registration or renewal fees and routine inspection by the State Department of Health Services.

Existing law, the Medical Practice Act, prohibits the unauthorized practice of medicine, but also provides that it does not prohibit service in the case of emergency, or the domestic administration of family remedies.

This bill would provide that the act shall not be construed to prohibit obtaining a blood specimen by skin puncture for the purpose of performing blood glucose testing for the purposes of monitoring a minor child with diabetes in accordance with specified requirements.

Existing law provides for the licensure and regulation of child day care facilities by the State Department of Social Services.

This bill would authorize blood glucose testing for the purposes of monitoring a minor child with diabetes to be performed in a child day care facility in accordance with specified requirements. The bill would prohibit any provision of law from requiring an insulin injection to be administered to a child in a child day care facility.

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

SECTION 1. Section 1241 of the Business and Professions Code is amended to read:

1241. (a) This chapter applies to all clinical laboratories in California or receiving biological specimens originating in California for the purpose of performing a clinical laboratory test or examination, and to all persons performing clinical laboratory tests or examinations or engaging in clinical laboratory practice in California or on biological specimens originating in California, except as provided in subdivision (b).

(b) This chapter shall not apply to any of the following clinical laboratories, or to persons performing clinical laboratory tests or examinations in any of the following clinical laboratories:

(1) Those owned and operated by the United States of America, or any department, agency, or official thereof acting in his or her official capacity to the extent that the Secretary of the federal Department of Health and Human Services has modified the application of CLIA requirements to those laboratories.

(2) Public health laboratories, as defined in Section 1206.

(3) Those that perform clinical laboratory tests or examinations for forensic purposes only.

(4) Those that perform clinical laboratory tests or examinations for research and teaching purposes only and do not report or use patient-specific results for the diagnosis, prevention, or treatment of any disease or impairment of, or for the assessment of the health of, an individual.

(5) Those that perform clinical laboratory tests or examinations certified by the National Institutes on Drug Abuse only for those certified tests or examinations. However, all other clinical laboratory tests or examinations conducted by the laboratory are subject to this chapter.

(6) Those that register with the State Department of Health Services pursuant to subdivision (c) to perform blood glucose testing for the purposes of monitoring a minor child diagnosed with diabetes when the person performing the test has been entrusted with the care and control of the child by the child's parent or legal guardian and provided that all of the following occur:

(A) The blood glucose monitoring test is performed with a blood glucose monitoring instrument that has been approved by the federal Food and Drug Administration for sale over the counter to the public without a prescription.

(B) The person has been provided written instructions by the child's health care provider or an agent of the child's health care provider in accordance with the manufacturer's instructions on the proper use of the monitoring instrument and the handling of any



lancets, test strips, cotton balls, or other items used during the process of conducting a blood glucose test.

(C) The person, receiving written authorization from the minor's parent or legal guardian, complies with written instructions from the child's health care provider, or an agent of the child's health care provider, regarding the performance of the test and the operation of the blood glucose monitoring instrument, including how to determine if the results are within the normal or therapeutic range for the child, and any restriction on activities or diet that may be necessary.

(D) The person complies with specific written instructions from the child's health care provider or an agent of the child's health care provider regarding the identification of symptoms of hypoglycemia or hyperglycemia, and actions to be taken when results are not within the normal or therapeutic range for the child. The instructions shall also contain the telephone number of the child's health care provider and the telephone number of the child's parent or legal guardian.

(E) The person records the results of the blood glucose tests and provides them to the child's parent or legal guardian on a daily basis.

(F) The person complies with universal precautions when performing the testing and posts a list of the universal precautions in a prominent place within the proximity where the test is conducted.

(c) Any place where blood glucose testing is performed pursuant to this section shall register by notifying the State Department of Health Services in writing no later than 30 days after testing has commenced. Registrants pursuant to this subdivision shall not be required to pay any registration or renewal fees nor shall they be subject to routine inspection by the State Department of Health Services.

SEC. 2. Section 2058 of the Business and Professions Code is amended to read:

2058. (a) Nothing in this chapter prohibits service in the case of emergency, or the domestic administration of family remedies.

(b) Nothing in this chapter shall be construed to prohibit obtaining a blood specimen by skin puncture for the purpose of performing blood glucose testing for the purposes of monitoring a minor child in accordance with paragraph (6) of subdivision (b) of Section 1241.

SEC. 3. Section 1596.797 is added to the Health and Safety Code, to read:

1596.797. (a) Blood glucose testing for the purposes of monitoring a minor child diagnosed with diabetes may be performed in a child day care facility in accordance with paragraph (6) of subdivision (b) of Section 1241 of the Business and Professions Code.

(b) Nothing in this section, or in any other provision of law, including, but not limited to, Section 1241 or 2058 of the Business and



Professions Code, shall require an insulin injection to be administered to any child in a child day care facility.

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