

AMENDED IN SENATE APRIL 11, 2012

**SENATE BILL**

**No. 1318**

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**Introduced by Senator Wolk**

February 23, 2012

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An act to amend, *repeal, and add* Section 1288.7 of, *and to add Section 1228.5 to*, the Health and Safety Code, relating to infectious diseases.

LEGISLATIVE COUNSEL'S DIGEST

SB 1318, as amended, Wolk. Health facilities: influenza vaccinations.

Existing law imposes on the State Department of Public Health various duties and responsibilities regarding the regulation of *clinics and* health facilities, including general acute care hospitals, as defined.

Existing law requires a general acute care hospital to annually offer onsite influenza vaccinations, if available, to all hospital employees. Existing law requires a general acute care hospital to require its employees to be vaccinated, or if the employee elects not to be vaccinated, to declare in writing that he or she declined the vaccination. A violation of these provisions is punishable as a misdemeanor.

This bill would ~~extend these vaccination provisions to require, commencing July 1, 2013, each clinic and health facility to annually offer onsite influenza vaccinations to its employees and to require its employees, contractors, students, volunteers, persons with privileges on the medical staff, and other onsite health care workers affiliated with the hospital, clinic or health facility, as defined, to be vaccinated. This bill would require each of the above-listed persons who has received a vaccination from another health facility to present verification to the clinic or health facility. This bill would require one of these parties each of the above-listed persons who elects not to be vaccinated or does~~

*not provide proof of vaccination to wear a hospital-provided clinic- or health facility-provided protective mask, as specified, while serving his or her duties at the hospital clinic or health facility during the influenza season. By expanding the definition of a crime, this bill would impose a state-mandated local program.*

*This bill would also require, on and after July 1, 2013, each clinic and health facility to develop policies to ensure nonmedical staff, as defined compliance with vaccination requirements. This bill would require, on and after that date, the medical staff to develop separate policies to ensure compliance with vaccination requirements.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1     ~~SECTION 1. Section 1288.7 of the Health and Safety Code is~~  
 2     ~~amended to read:~~  
 3     ~~1288.7. The department shall require that each general acute~~  
 4     ~~care hospital, in accordance with the Centers for Disease Control~~  
 5     ~~guidelines, take all of the following actions:~~  
 6     ~~(a) Annually offer onsite influenza vaccinations, if available,~~  
 7     ~~to all hospital employees, contractors, students, volunteers, and~~  
 8     ~~all other onsite health care workers affiliated with the hospital at~~  
 9     ~~no cost to the employee, contractor, student, volunteer, or other~~  
 10    ~~onsite health care worker affiliated with the hospital. Each general~~  
 11    ~~acute care hospital shall require its employees, contractors,~~  
 12    ~~students, volunteers, and other onsite health care workers affiliated~~  
 13    ~~with the hospital to be vaccinated, or if an employee, contractor,~~  
 14    ~~student, volunteer, or other onsite health care worker affiliated~~  
 15    ~~with the hospital elects not to be vaccinated, to declare in writing~~  
 16    ~~that he or she has declined the vaccination. An employee,~~  
 17    ~~contractor, student, volunteer, or other onsite health care worker~~  
 18    ~~affiliated with the hospital who declines the vaccination shall wear~~  
 19    ~~a hospital-provided surgical or procedural mask, or other mask~~  
 20    ~~that covers the mouth and nose area of the face in order to prevent~~

1 ~~the spread of infectious diseases, while serving his or her duties~~  
2 ~~at the hospital.~~

3 ~~(b) Institute respiratory hygiene and cough etiquette protocols,~~  
4 ~~develop and implement procedures for the isolation of patients~~  
5 ~~with influenza, and adopt a seasonal influenza plan.~~

6 ~~(c) Revise an existing or develop a new disaster plan that~~  
7 ~~includes a pandemic influenza component. The plan shall also~~  
8 ~~document any actual or recommended collaboration with local,~~  
9 ~~regional, and state public health agencies or officials in the event~~  
10 ~~of an influenza pandemic.~~

11 ~~(d) For purposes of this section, “health care worker affiliated~~  
12 ~~with the hospital” means a person who is either a volunteer or is~~  
13 ~~employed by, paid by, receives credit from, or any other form of~~  
14 ~~compensation from the acute care hospital. Health care workers~~  
15 ~~include, but are not limited to, physicians, nurses, nursing~~  
16 ~~assistants, therapists, technicians, emergency medical service~~  
17 ~~personnel, dental personnel, pharmacists, laboratory personnel,~~  
18 ~~autopsy personnel, students and trainees, contractual staff not~~  
19 ~~employed by the health care facility, and persons not directly~~  
20 ~~involved in patient care but potentially exposed to infectious agents~~  
21 ~~that can be transmitted to and from health care workers and~~  
22 ~~patients.~~

23 *SECTION 1. Section 1228.5 is added to the Health and Safety*  
24 *Code, to read:*

25 *1228.5. (a) A clinic shall annually offer its employees onsite*  
26 *influenza vaccinations, if available, at no cost to the employee.*

27 *(b) A clinic shall require all employees, contractors, students,*  
28 *volunteers, persons with privileges on the medical staff, and all*  
29 *other onsite health care workers affiliated with the clinic to either*  
30 *annually receive an influenza vaccination or, as an alternative to*  
31 *the annual influenza vaccination, wear a clinic-provided surgical*  
32 *or procedural mask, or other mask that covers the mouth and nose*  
33 *area of the face while this person is performing his or her duties*  
34 *in any patient care area of the clinic during the influenza season,*  
35 *as defined by the State Health Officer or a local health officer, or*  
36 *both.*

37 *(c) In meeting the requirements of subdivision (b), the clinic*  
38 *shall maintain influenza vaccination records of employees,*  
39 *contractors, students, volunteers, persons with privileges on the*  
40 *medical staff, and all other onsite health care workers affiliated*

1 *with the clinic who were vaccinated onsite or offsite. If the clinic*  
2 *does not have records of a worker being vaccinated onsite, the*  
3 *clinic shall require the worker to either provide documentation of*  
4 *an offsite vaccination or documentation that he or she refused the*  
5 *vaccination.*

6 *(d) Each clinic shall develop policies to ensure its employees,*  
7 *contractors, students, volunteers, and other onsite health care*  
8 *workers affiliated with the clinic, not including medical staff, are*  
9 *in compliance with the vaccination requirements imposed by this*  
10 *section. The medical staff shall develop policies independent of*  
11 *the policies established by the clinic to ensure that persons who*  
12 *have privileges on the medical staff are in compliance with the*  
13 *vaccination requirements of this section.*

14 *(e) Nothing in this section shall be construed to prevent a clinic*  
15 *from instituting additional measures to maximize influenza*  
16 *vaccination rates and to prevent health care workers affiliated*  
17 *with the clinic from contracting and transmitting the influenza*  
18 *virus.*

19 *(f) For purposes of this section, the following definitions shall*  
20 *apply:*

21 *(1) "Health care worker affiliated with the clinic" means a*  
22 *person who is either a volunteer or is employed by, paid by, or*  
23 *receives credit or any other form of compensation from the clinic.*  
24 *Health care worker affiliated with the clinic includes, but is not*  
25 *limited to, physicians, nurses, nursing assistants, therapists,*  
26 *technicians, emergency medical service personnel, dental*  
27 *personnel, pharmacists, laboratory personnel, autopsy personnel,*  
28 *students and trainees, and contractual staff not employed by the*  
29 *clinic.*

30 *(2) "Medical staff" means professional medical personnel who*  
31 *are approved and given privileges to provide health care to patients*  
32 *in a clinic and who are responsible for the adequacy and quality*  
33 *of care rendered to patients. Medical staff include physicians and*  
34 *surgeons, and, where dental or podiatric services are provided,*  
35 *dentists or podiatrists.*

36 *(g) This section shall become operative on July 1, 2013.*

37 *SEC. 2. Section 1288.7 of the Health and Safety Code is*  
38 *amended to read:*

39 *1288.7. By July 1, 2007, the department shall require that each*  
40 *general acute care hospital, in accordance with the Centers for*

1 Disease Control *and prevention* guidelines, take all of the following  
2 actions:

3 (a) Annually offer onsite influenza vaccinations, if available,  
4 to all hospital employees at no cost to the employee. Each general  
5 acute care hospital shall require its employees to be vaccinated,  
6 or if the employee elects not to be vaccinated, to declare in writing  
7 that he or she has declined the vaccination.

8 (b) Institute respiratory hygiene and cough etiquette protocols,  
9 develop and implement procedures for the isolation of patients  
10 with influenza, and adopt a seasonal influenza plan.

11 (c) Revise an existing or develop a new disaster plan that  
12 includes a pandemic influenza component. The plan shall also  
13 document any actual or recommended collaboration with local,  
14 regional, and state public health agencies or officials in the event  
15 of an influenza pandemic.

16 (d) *This section shall become inoperative on July 1, 2013, and,  
17 as of January 1, 2013, is repealed, unless a later enacted statute,  
18 that becomes operative on or before January 1, 2013, deletes or  
19 extends the dates on which it becomes inoperative and is repealed.*

20 *SEC. 3. Section 1288.7 is added to the Health and Safety Code,  
21 to read:*

22 *1288.7. (a) A health facility shall annually offer its employees  
23 onsite influenza vaccinations, if available, at no cost to the  
24 employee.*

25 *(b) A health facility shall require all employees, contractors,  
26 students, volunteers, persons with privileges on the medical staff,  
27 and all other onsite health care workers affiliated with the health  
28 facility to either annually receive an influenza vaccination or, as  
29 an alternative to the annual influenza vaccination, wear a health  
30 facility-provided surgical or procedural mask, or other mask that  
31 covers the mouth and nose area of the face while this person is  
32 performing his or her duties in any patient care area of the health  
33 facility during the influenza season, as defined by the State Health  
34 Officer or a local health officer, or both.*

35 *(c) In meeting the requirements of subdivision (b), the health  
36 facility shall maintain influenza vaccination records of employees,  
37 contractors, students, volunteers, persons with privileges on the  
38 medical staff, and all other onsite health care workers affiliated  
39 with the health facilities who were vaccinated onsite or offsite. If  
40 the health facility does not have records of a worker being*

1 vaccinated onsite, the health facility shall require the worker to  
2 either provide documentation of an offsite vaccination or  
3 documentation that he or she refused the vaccination.

4 (d) Each health facility shall develop policies to ensure its  
5 employees, contractors, students, volunteers, and other onsite  
6 health care workers affiliated with the health facility, not including  
7 medical staff, are in compliance with the vaccination requirements  
8 imposed by this section. The medical staff shall develop policies  
9 independent of the policies established by the health facility to  
10 ensure that persons who have privileges on the medical staff are  
11 in compliance with the vaccination requirements of this section.

12 (e) Nothing in this section shall be construed to prevent a health  
13 facility from instituting additional measures to maximize influenza  
14 vaccination rates and to prevent health care workers affiliated  
15 with the health facility from contracting and transmitting the  
16 influenza virus.

17 (f) In addition to other requirements of this section, general  
18 acute care hospitals shall take all of the following actions:

19 (1) Institute respiratory hygiene and cough etiquette protocols,  
20 develop and implement procedures for the isolation of patients  
21 with influenza, and adopt a seasonal influenza plan.

22 (2) Revise an existing or develop a new disaster plan that  
23 includes a pandemic influenza component. The plan shall also  
24 document any actual or recommended collaboration with local,  
25 regional, and state public health agencies or officials in the event  
26 of an influenza pandemic.

27 (g) For purposes of this section, the following definitions shall  
28 apply:

29 (1) “Health care worker affiliated with the health facility”  
30 means a person who is either a volunteer or is employed by, paid  
31 by, or receives credit or any other form of compensation from the  
32 health facility. Health care worker affiliated with the health facility  
33 includes, but is not limited to, physicians, nurses, nursing  
34 assistants, therapists, technicians, emergency medical service  
35 personnel, dental personnel, pharmacists, laboratory personnel,  
36 autopsy personnel, students and trainees, and contractual staff  
37 not employed by the health facility.

38 (2) “Medical staff” means professional medical personnel who  
39 are approved and given privileges to provide health care to patients  
40 in a health facility and who are responsible for the adequacy and

1 *quality of care rendered to patients. Medical staff include*  
2 *physicians, and, where dental or podiatric services are provided,*  
3 *dentists or podiatrists.*

4 *(h) This section shall become operative on July 1, 2013.*

5 ~~SEC. 2.~~

6 *SEC. 4.* No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.