

AMENDED IN ASSEMBLY JULY 6, 1998

AMENDED IN SENATE MAY 20, 1998

AMENDED IN SENATE APRIL 22, 1998

AMENDED IN SENATE APRIL 20, 1998

**SENATE BILL**

**No. 1663**

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**Introduced by Senator O'Connell**

(Principal coauthor: Assembly Member Cunneen)

**(Coauthors: Senators Leslie, Solis, and Vasconcellos)**

(Coauthors: Assembly Members Aroner, Cedillo, Davis, Kuehl, Leach, Lempert, Machado, Mazzoni, Thomson, Villaraigosa, and Wildman)

February 13, 1998

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An act to amend Section 3765 of the Business and Professions Code, and to add Section 1596.798 to the Health and Safety Code, relating to child day care facilities, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1663, as amended, O'Connell. Child day care facilities: administering inhaled medication.

Existing law, the Respiratory Care Practice Act, regulates the practice of respiratory care and is administered by the Respiratory Care Board of California within the jurisdiction of the Medical Board. Existing law provides that these provisions do not prohibit certain acts related to respiratory care.

This bill would provide that these regulatory provisions do not prohibit licensees and staff of child day care facilities from

administering to a child inhaled medication as defined by this bill.

Existing law sets forth provisions for the licensure and regulation of child day care facilities administered by the State Department of Social Services contained in the Health and Safety Code.

This bill would provide that nothing in the Health and Safety Code shall be interpreted to prohibit licensees and staff of child day care facilities from administering inhaled medication, as described, to a child if certain requirements are met.

*The bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 3765 of the Business and
- 2 Professions Code is amended to read:
- 3 3765. This act does not prohibit any of the following
- 4 activities:
- 5 (a) The performance of respiratory care which is an
- 6 integral part of the program of study by students enrolled
- 7 in approved respiratory therapy training programs.
- 8 (b) Self-care by the patient or the gratuitous care by
- 9 a friend or member of the family who does not represent
- 10 or hold himself or herself out to be a respiratory care
- 11 practitioner licensed under the provisions of this chapter.
- 12 (c) The respiratory care practitioner from performing
- 13 advances in the art and techniques of respiratory care
- 14 learned through formal or specialized training.
- 15 (d) The performance of respiratory care by
- 16 paramedical personnel who have been formally trained
- 17 in these modalities and are duly licensed under the
- 18 provisions of an act pertaining to their speciality.
- 19 (e) Respiratory care services in case of an emergency.
- 20 "Emergency," as used in this subdivision, includes an
- 21 epidemic or public disaster.



1 (f) Persons from engaging in cardiopulmonary  
2 research.

3 (g) Formally trained licensees and staff of child day  
4 care facilities from administering to a child inhaled  
5 medication as defined in Section 1596.798 of the Health  
6 and Safety Code.

7 SEC. 2. Section 1596.798 is added to the Health and  
8 Safety Code, to read:

9 1596.798. (a) Nothing in this code shall be  
10 interpreted to prohibit licensees and staff of a child day  
11 care facility from administering inhaled medication to a  
12 child if all of the following requirements are met:

13 (1) The licensee or staff person has been provided  
14 with written authorization from the minor's parent or  
15 legal guardian to administer inhaled medication and  
16 authorization to contact the child's health care provider.  
17 The authorization shall include the telephone number  
18 and address of the minor's parent or legal guardian.

19 (2) The licensee or staff person complies with specific  
20 written instructions, updated annually, from the child's  
21 health care provider or an agent of the child's health care  
22 provider regarding the child's symptoms, the dose form  
23 and amount to be administered, either on a scheduled, or  
24 on an as-needed basis, the time of day to administer the  
25 inhaled medication, precautions, and actions to be taken  
26 in the event of side effects or ineffective treatment. The  
27 written instructions shall also contain the telephone  
28 number and address of the child's health care provider.

29 (3) The licensee or staff person that administers the  
30 inhaled medication to the child shall record each instance  
31 and provide a record to the minor's parent or legal  
32 guardian on a daily basis.

33 (4) Any licensee or staff person that administers  
34 inhaled medication shall successfully complete formal  
35 training designed to provide instruction in administering  
36 inhaled medication to children with respiratory needs.  
37 This training shall include, but not be limited to, training  
38 in the use of nebulizer equipment, how to clean the  
39 equipment, proper storage of inhaled medication, how a  
40 child should respond to inhaled medication, what to do in



1 cases of emergency, how to identify side effects of the  
2 medication, and when to notify a parent or legal guardian  
3 or physician. This training shall be provided by any  
4 licensed health care provider with knowledge in the  
5 performance of nebulizer therapy, including, but not  
6 limited to, physicians, nurses, or respiratory care  
7 practitioners or, for a specified child, provided by a  
8 trained individual designated by that child's treating  
9 physician.

10 (b) For purposes of this section, inhaled medication  
11 shall refer to medication prescribed for the child to  
12 control lung-related illness, including, but not limited to,  
13 local held nebulizers.

14 *SEC. 3. This act is an urgency statute necessary for the*  
15 *immediate preservation of the public peace, health, or*  
16 *safety within the meaning of Article IV of the*  
17 *Constitution and shall go into immediate effect. The facts*  
18 *constituting the necessity are:*

19 *In order that children with respiratory problems may*  
20 *be accepted into child care homes and facilities as soon as*  
21 *possible, and may receive assistance from child care*  
22 *providers in administering inhaled medication, it is*  
23 *necessary that this act take effect immediately.*

