

**Senate Bill No. 1663**

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Passed the Senate August 25, 1998

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*Secretary of the Senate*

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Passed the Assembly August 20, 1998

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1998, at \_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_

An act to amend Section 3765 of the Business and Professions Code, and to add Sections 1596.798 and 1596.8661 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, 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 licensees and staff of child day care facilities may administer inhaled medication, as described, to a child if certain requirements are met, including designated training.

Existing law requires that a day care center director ensure that at least one staff member that has a current certificate in pediatric first aid and pediatric cardiopulmonary resuscitation issued by a training program that has been approved by the Emergency Medical Services Authority be available at all times when children are present at the facility or when children are offsite of the facility for facility activities. Existing law requires the authority to establish minimum standards for the training requirements under this provision.



This bill would require the authority to establish minimum standards for a component of pediatric first aid training that satisfies the designated training requirements of the bill with regard to the administration of inhaled medication.

Existing law establishes the Child Care and Development Services Act, whereby the Superintendent of Public Instruction administers child care and development services programs, including state preschool, general child care and development programs, and early primary programs.

The bill would also provide that nothing in these provisions shall be interpreted to require a certificated teacher who provides day care pursuant to the Child Care and Development Services Act in a public school setting to administer inhaled medication.

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

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

SECTION 1. Section 3765 of the Business and Professions Code is amended to read:

3765. This act does not prohibit any of the following activities:

(a) The performance of respiratory care which is an integral part of the program of study by students enrolled in approved respiratory therapy training programs.

(b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold himself or herself out to be a respiratory care practitioner licensed under the provisions of this chapter.

(c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training.

(d) The performance of respiratory care by paramedical personnel who have been formally trained in these modalities and are duly licensed under the provisions of an act pertaining to their speciality.



(e) Respiratory care services in case of an emergency. “Emergency,” as used in this subdivision, includes an epidemic or public disaster.

(f) Persons from engaging in cardiopulmonary research.

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

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

1596.798. (a) Notwithstanding any other provision of law, licensees and staff of a child day care facility may administer inhaled medication to a child if all of the following requirements are met:

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

(2) The licensee or staff person complies with specific written instructions from the child’s physician to which all of the following shall apply:

(A) The instructions shall contain all of the following information:

(i) Specific indications for administering the medication pursuant to the physician’s prescription.

(ii) Potential side effects and expected response.

(iii) Dose-form and amount to be administered pursuant to the physician’s prescription.

(iv) Actions to be taken in the event of side effects or incomplete treatment response pursuant to the physician’s prescription.

(v) Instructions for proper storage of the medication.

(vi) The telephone number and address of the child’s physician.

(B) The instructions shall be updated annually.

(3) The licensee or staff person that administers the inhaled medication to the child shall record each instance



and provide a record to the minor's parent or legal guardian on a daily basis.

(4) Beginning January 1, 2000, a licensee or staff person who obtains or renews a pediatric first aid certificate pursuant to Section 1596.866 shall complete formal training designed to provide instruction in administering inhaled medication to children with respiratory needs. This training shall include, but not be limited to, training in the general use of nebulizer equipment and inhalers, how to clean the equipment, proper storage of inhaled medication, how a child should respond to inhaled medication, what to do in cases of emergency, how to identify side effects of the medication, and when to notify a parent or legal guardian or physician. This training shall be a component in the pediatric first aid certificate requirement as provided in Section 1596.8661.

(5) For a specified child, the licensee or staff person who administers inhaled medication has been instructed to administer inhaled medication by the child's parent or guardian.

(6) Beginning January 1, 2000, any training materials pertaining to nebulizer care that licensees or staff receive in the process of obtaining or renewing a pediatric first aid certificate pursuant to paragraph (4) shall be kept on file at the child care facility. The materials shall be made available to a licensee or staff person who administers inhaled medication. This requirement shall only apply to the extent that training materials are made available to licensees or staff who obtain or renew a pediatric first aid certificate pursuant to paragraph (4).

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

(c) Nothing in this section shall be interpreted to require a certificated teacher who provides day care pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code in a public school setting to administer inhaled medication.



SEC. 3. Section 1596.8661 is added to the Health and Safety Code, to read:

1596.8661. (a) For purposes of the training required pursuant to paragraph (4) of subdivision (a) of Section 1596.798, pediatric first aid training pursuant to Section 1596.866 shall include a component of training in the administration of inhaled medication described in paragraph (4) of subdivision (a) of Section 1596.798.

(b) The Emergency Medical Services Authority shall establish, consistent with Section 1797.191, minimum standards for a component of pediatric first aid training that satisfies the requirements of paragraph (4) of subdivision (a) of Section 1596.798. For purposes of this subdivision, the Emergency Medical Services Authority is encouraged to consult with organizations and providers with expertise in administering inhaled medication and nebulizer care, including, but not limited to, the American Lung Association, respiratory therapists, and others.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

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



Approved \_\_\_\_\_, 1998

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*Governor*

