

BILL ANALYSIS

C.S.S.B. 1177
By: Nelson
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Health care workers routinely work with patients, such as the elderly and infants, who have undeveloped or compromised immune systems. Despite recent recommendations from the National Advisory Committee on Immunization Practices that all health care workers receive annual influenza vaccinations, it has been reported that the percentage of health care workers who actually receive the vaccine is less than 50 percent. Interested parties assert that hospitals should have policies in place to make sure that vulnerable populations are protected from vaccine preventable diseases. C.S.S.B. 1177 seeks to address this issue by amending current law relating to the adoption by health care facilities of a policy on vaccine preventable disease and the imposition of penalties for certain related violations.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the appropriate rulemaking authority for each state agency that regulates a health care facility in SECTIONS 2 and 3 of this bill.

ANALYSIS

C.S.S.B. 1177 amends the Health and Safety Code to require each health care facility to develop and implement a policy to protect its patients from vaccine preventable diseases. The bill requires the policy to do the following:

- require covered individuals to receive vaccines for the vaccine preventable diseases specified by the facility based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;
- specify the vaccines a covered individual is required to receive based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;
- include procedures for verifying whether a covered individual has complied with the policy;
- include procedures for a covered individual to be exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention;
- for a covered individual who is exempt from the required vaccines, to include procedures the individual must follow to protect facility patients from exposure to disease, such as the use of protective medical equipment, such as gloves and masks, based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;
- prohibit discrimination or retaliatory action against a covered individual who is exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention, except that required use

of protective medical equipment, such as gloves and masks, may not be considered retaliatory action for purposes of the bill's provisions;

- require the health care facility to maintain a written or electronic record of each covered individual's compliance with or exemption from the policy; and
- include disciplinary actions the health care facility is authorized to take against a covered individual who fails to comply with the policy.

The bill authorizes the policy to include procedures for a covered individual to be exempt from the required vaccines based on reasons of conscience, including a religious belief.

C.S.S.B. 1177 authorizes a health care facility, during a public health disaster, to prohibit a covered individual who is exempt from the vaccines required in the policy developed by the facility under the bill's provisions from having contact with facility patients. The bill subjects a health care facility that violates the bill's provisions to an administrative or civil penalty in the same manner, and subject to the same procedures, as if the facility had violated a provision of the Health and Safety Code that specifically governs the facility. The bill requires the appropriate rulemaking authority for each state agency that regulates a health care facility, not later than June 1, 2012, to adopt rules necessary to implement the bill's provisions.

C.S.S.B. 1177 defines "covered individual," "health care facility," "regulatory authority," and "vaccine preventable diseases" and provides for the meaning of "public health disaster" by reference. The bill establishes that a health care facility subject to the bill's provisions is not required to have a policy on vaccine preventable diseases in effect until September 1, 2012.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1177 differs from the original by defining "covered individual" as an employee of the health care facility, an individual providing direct patient care under a contract with a health care facility, or an individual to whom a health care facility has granted privileges to provide direct patient care, whereas the original defines "employee" as an individual providing direct patient care pursuant to a contract with a health care facility and an individual to whom a health care facility has granted privileges to provide direct patient care.

C.S.S.B. 1177 differs from the original by making its provisions relating to the vaccine preventable diseases policy required to be developed and implemented in each health care facility to protect its patients from vaccine preventable diseases applicable to covered individuals of the health care facility, whereas the original makes those provisions applicable to employees of the health care facility.

C.S.S.B. 1177 differs from the original by requiring the vaccine preventable diseases policy to include procedures for a covered individual to be exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention, whereas the original requires the policy to include procedures for a health care facility employee to be exempt from the required vaccines for medical reasons. The substitute differs from the original, in the provision requiring the vaccine preventable disease policy to include procedures an individual who is exempt from the required vaccines must follow to protect facility patients from exposure to disease, by specifying that those procedures include procedures such as the use of protective medical equipment, such as gloves and masks, based on certain risk factors, whereas the original specifies that those procedures include procedures such as wearing a mask based on those risk factors.

C.S.S.B. 1177 contains a provision not included in the original requiring the vaccine preventable

diseases policy to prohibit discrimination or retaliatory action against a covered individual who is exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention and specifying that required use of protective medical equipment, such as gloves and masks, may not be considered retaliatory action for purposes of the substitute's provisions.