



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code:  Section:

[Up^](#) [Add To My Favorites](#)

## HEALTH AND SAFETY CODE - HSC

### DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] ( Division 2 enacted by Stats. 1939, Ch. 60. )

#### CHAPTER 3.4. California Child Day Care Act [1596.70 - 1596.895] ( Chapter 3.4 added by Stats. 1984, Ch. 1615, Sec. 9. )

#### ARTICLE 1. General Provisions and Definitions [1596.70 - 1596.7996] ( Article 1 added by Stats. 1984, Ch. 1615, Sec. 9. )

**1596.70.** This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with 1597.30) may be cited as the California Child Day Care Facilities Act.

(Amended by Stats. 1985, Ch. 1064, Sec. 4.)

**1596.71.** This chapter applies to Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30). This chapter also applies to Chapter 3.65 (commencing with Section 1597.70).

(Amended by Stats. 1994, Ch. 690, Sec. 1. Effective January 1, 1995.)

**1596.72.** The Legislature finds all of the following:

- (a) That child daycare facilities can contribute positively to a child's emotional, cognitive, and educational development.
- (b) That it is the intent of this state to provide a comprehensive, quality system for licensing child daycare facilities to ensure a quality childcare environment.
- (c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child daycare facilities.
- (d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of child daycare facilities from those facility types administered under Chapter 3 (commencing with Section 1500).
- (e) That good quality childcare services are an essential service for working parents.
- (f) California has a tremendous shortage of regulated childcare, and only a small fraction of families who need childcare have it. Parents should be able to support their families without having to sacrifice their child's well-being.
- (g) With childcare, families have more options for jobs and education to improve their prospects. Good, affordable childcare gives children a strong start and creates opportunities for families and communities.

(Amended by Stats. 2019, Ch. 244, Sec. 1. (SB 234) Effective January 1, 2020.)

**1596.73.** The purposes of this act are to:

- (a) Streamline the administration of childcare licensing and thereby increase the efficiency and effectiveness of this system.
- (b) Encourage the development of licensing staff with knowledge and understanding of children and childcare needs.
- (c) Provide providers of childcare with technical assistance about licensing requirements.
- (d) Enhance consumer awareness of licensing requirements and the benefits of licensed childcare.
- (e) Recognize that affordable, quality licensed childcare is critical to the well-being of parents and children in this state.
- (f) Promote the development and expansion of regulated childcare.

(Amended by Stats. 2019, Ch. 244, Sec. 2. (SB 234) Effective January 1, 2020.)

**1596.74.** Unless the context otherwise requires, the definitions contained in this chapter govern the construction of this chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30).

(Added by Stats. 1984, Ch. 1615, Sec. 9.)

**1596.75.** "Child" means a person who is under 18 years of age who is being provided care and supervision in a child day care facility, except where otherwise specified in this act.

*(Added by Stats. 1984, Ch. 1615, Sec. 9.)*

**1596.750.** "Child day care facility" means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers, employer-sponsored child care centers, and family day care homes.

*(Amended by Stats. 1994, Ch. 690, Sec. 2. Effective January 1, 1995.)*

**1596.76.** "Day care center" means a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and schoolage child care centers, and includes child care centers licensed pursuant to Section 1596.951.

*(Amended by Stats. 2018, Ch. 574, Sec. 1. (AB 605) Effective January 1, 2019.)*

**1596.77.** "Department" means the State Department of Social Services.

*(Added by Stats. 1984, Ch. 1615, Sec. 9.)*

**1596.770.** "Director" means the Director of Social Services.

*(Added by Stats. 1984, Ch. 1615, Sec. 9.)*

**1596.771.** "Employer-sponsored child care center" means any child day care facility at the employer's site of business operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of children of that employer, and of the officers, managers, and employees of that employer.

*(Added by Stats. 1994, Ch. 690, Sec. 3. Effective January 1, 1995.)*

**1596.773.** (a) "Probation" means the period of time that a licensed child day care facility is required to comply with specific terms and conditions set forth by the department in order to stay or postpone the revocation of the facility's license.

(b) "Revocation" means an administrative action taken by the department to void or rescind the license of a child day care facility because of serious or chronic violations of licensing laws or regulations by the facility.

*(Added by Stats. 2004, Ch. 358, Sec. 3. Effective January 1, 2005.)*

**1596.775.** The Legislature finds and declares all of the following:

(a) There is a severe shortage of child care for schoolage children throughout California, with many schoolage children going home to an empty, unsupervised setting after school.

(b) For nearly five years several counties have participated in a pilot program that allows for a family day care home to care for two additional children above the current number allowed pursuant to licensing regulations.

(c) As part of the pilot program, a study was conducted by the Assembly Office of Research. The results of the study demonstrated that the pilot program achieved all of the following results:

(1) Increased access to care for schoolage children.

(2) Participating providers encountered few problems and strongly support expansion of the program.

(3) Parents of children in the pilot program family day care homes strongly support the program.

(4) Participating providers with additional children were no more likely to receive substantiated complaints from licensing officials than nonparticipants.

(5) Local governments and planning officials saw little or no impact on their licensing policies and procedures.

(6) Overall quality of care was not adversely affected.

*(Added by Stats. 1996, Ch. 18, Sec. 1. Effective January 1, 1997.)*

**1596.78.** (a) "Family daycare home" means a facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family daycare home or a small family daycare home.

(b) "Large family daycare home" means a facility that provides care, protection, and supervision for 7 to 14 children, inclusive, including children under 10 years of age who reside at the home, as set forth in Section 1597.465 and as defined in regulations.

(c) "Small family daycare home" means a facility that provides care, protection, and supervision for eight or fewer children, including children under 10 years of age who reside at the home, as set forth in Section 1597.44 and as defined in regulations.

(d) A small family daycare home or large family daycare home includes a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses. A small family daycare home or large family daycare home is where the daycare provider resides, and includes a dwelling or a dwelling unit that is rented, leased, or owned.

*(Amended by Stats. 2019, Ch. 244, Sec. 3. (SB 234) Effective January 1, 2020.)*

**1596.785.** "Nonminor student" means a person 18 years of age or older who qualifies as an individual with exceptional needs, as defined in Section 56026 of the Education Code, and who qualifies for services from a regional center for persons with developmental disabilities, as a person with a developmental disability as defined in subdivision (a) of Section 4512 of the Welfare and Institutions Code. The terms "child," "children," or "minor," as used in this chapter or Chapter 3.5 (commencing with Section 1596.90), may also include a nonminor student enrolled or retained at a schoolage child care center.

*(Added by Stats. 2011, Ch. 471, Sec. 1. (SB 309) Effective January 1, 2012.)*

**1596.79.** "Person" means an individual, partnership, association, corporation, limited liability company, or governmental entity, such as the state, a county, city, special district, school district, community college district, chartered city, or chartered city and county.

*(Amended by Stats. 1994, Ch. 1010, Sec. 155. Effective January 1, 1995.)*

**1596.790.** "Planning agency" means the agency designated pursuant to Section 65100 of the Government Code.

*(Added by Stats. 1984, Ch. 1615, Sec. 9.)*

**1596.791.** "Provider" means a person who operates a child day care facility and is licensed pursuant to Chapter 3.5 (commencing with Section 1596.90) or 3.6 (commencing with Section 1597.30).

*(Added by Stats. 1984, Ch. 1615, Sec. 9.)*

**1596.7915.** "Schoolage child care center" means a day care center or part of a day care center that provides nonmedical care and supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of schoolage children or nonminor students, or both, in a group setting for less than 24 hours per day.

*(Added by Stats. 2011, Ch. 471, Sec. 2. (SB 309) Effective January 1, 2012.)*

**1596.7916.** "Drop-in childcare center" means any daycare center, as defined in Section 1596.76, that exclusively offers a program of services for which there is no contract or agreement between any child's authorized representative and the center for the regular or prearranged schedule of care for any child.

*(Added by Stats. 2024, Ch. 933, Sec. 1. (AB 772) Effective January 1, 2025.)*

**1596.792.** This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family childcare home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 20 hours per week.

(B) For a total of 14 weeks or less during a 12-month period. This total applies to any 14 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended daycare programs operated by public or private schools, including, but not limited to, expanded learning opportunity programs, as specified in subparagraphs (B) and (C) of paragraph (9) of subdivision (b) of Section 46120 of the Education Code.

(i) Any school parenting program or adult education childcare program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child daycare program that operates only one day per week for no more than four hours on that one day.

(k) Any child daycare program that offers temporary childcare services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child daycare program.

(2) The child daycare program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections and Rehabilitation that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in paragraph (17) of subdivision (a) of Section 1502.

(o) (1) Commencing with the adoption of emergency regulations pursuant to paragraph (3), or no later than July 1, 2019, whichever comes first, a California state preschool program operated by a local educational agency under contract with the State Department of Education and that operates in a school building, as defined by Section 17283 of the Education Code, that meets all of the following conditions:

(A) The program is operated in a local educational agency facility that meets the requirements of the Field Act, as specified in Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 3 of Part 10.5 of Division 1 of Title 1 of, and Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of Division 7 of Title 3 of, the Education Code.

(B) The local educational agency facility is constructed consistent with California Building Standards Code pursuant to Title 24 of the California Code of Regulations.

(C) The local educational agency facility meets the requirements for kindergarten classrooms in accordance with Chapter 13 (commencing with Section 14000) of Division 1 of Title 5 of the California Code of Regulations.

(D) The program meets all other requirements of California state preschool programs pursuant to Chapter 19 (commencing with Section 17906) of Division 1 of Title 5 of the California Code of Regulations.

(2) A California state preschool program exempt under this subdivision shall be considered licensed under Division 12 (commencing with Section 101151) of Title 22 of the California Code of Regulations for purposes of establishing a rating on an early learning quality rating and improvement system matrix pursuant to Section 8203.1 of the Education Code.

(3) (A) No later than October 1, 2017, the Legislative Analyst shall convene a stakeholder process for the purpose of ensuring state preschools operated by local educational agencies are maintaining all existing necessary health and safety requirements.

(B) The stakeholder process shall identify and make recommendations on any health and safety requirements currently required under Title 22 of the California Code of Regulations, but not included in Title 5 of the California Code of Regulations, the Field Act, Title 24 of the California Code of Regulations, the California Plumbing Code, the Education Code, or this code, including, but not limited to, all of the following:

(i) Adequate outdoor shade structures.

(ii) Access to age and developmentally appropriate bathroom and drinking water facilities.

(iii) Appropriate processes for parent notification and resolution of code and regulation violations.

(C) The stakeholder process participants shall include experts on early childhood education health and safety issues from local educational agency and nonlocal educational agency state preschool program providers, and representatives from the State Department of Education, State Department of Social Services, Department of Finance, and legislative staff.

(D) No later than March 15, 2018, the Legislative Analyst shall report to the appropriate fiscal and policy committees of the Legislature, the Department of Finance, and the State Department of Education on recommendations or observations as a result of the stakeholder process. These recommendations or observations shall consider the fiscal impact on the state. No sooner than 30 days after the report is provided, the State Department of Education shall commence a process to adopt emergency regulations pursuant to Section 11346.1 of the Government Code to satisfy the requirements of this paragraph. The adoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(4) For purposes of this subdivision, the following terms have the following meanings:

(A) "California state preschool program" means any classroom that is funded, in whole or in part, by funds received pursuant to Section 8207 of the Education Code.

(B) "Local educational agency" means a school district, county office of education, or charter school.

*(Amended by Stats. 2023, Ch. 48, Sec. 91. (SB 114) Effective July 10, 2023.)*

**1596.7925.** (a) On or before July 1, 2019, the State Department of Education shall adopt new health and safety regulations under Title 5 of the California Code of Regulations that apply to California state preschool programs that meet the conditions specified in subdivision (o) of Section 1596.792. The regulations shall require those programs to have all of the following:

- (1) Outdoor shade that is safe and in good repair.
- (2) Drinking water that is accessible and readily available throughout the day.
- (3) Safe and sanitary restroom facilities with one toilet and handwashing fixture for every 15 children.
- (4) Restroom facilities that are only available for preschoolers and kindergartners.
- (5) Visual supervision of children at all times.
- (6) Indoor and outdoor space that is properly contained or fenced and provides sufficient space for the number of children using the space at any given time. Playground equipment must be safe, in good repair, and age appropriate.

(b) The State Department of Education may adopt emergency regulations pursuant to Section 11346.1 of the Government Code to satisfy the requirements of this section. The adoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(c) A violation of regulations adopted pursuant to subdivision (a) or (b) shall not be subject to Section 1596.890.

*(Added by Stats. 2018, Ch. 32, Sec. 126. (AB 1808) Effective June 27, 2018.)*

**1596.793.** This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to recreation programs conducted for children by the YMCA, Girl Scouts of the USA, Boy Scouts of America, Boys and Girls Clubs, Camp Fire USA, organized camps, or similar organizations. However, child day care programs conducted by these organizations and the fees charged for those purposes shall be subject to the requirements of this chapter, Chapter 3.5 (commencing with Section 1596.90) and Chapter 3.6 (commencing with Section 1597.30).

*(Amended by Stats. 2012, Ch. 652, Sec. 2. (SB 1087) Effective January 1, 2013.)*

**1596.794.** The department shall serve as the liaison to child day care facilities for the purposes of Sections 17608 to 17613, inclusive, of the Education Code.

*(Added by Stats. 2006, Ch. 865, Sec. 7. Effective January 1, 2007.)*

**1596.795.** (a) The smoking of a tobacco product in a private residence that is licensed as a family day care home shall be prohibited in the home and in those areas of the family day care home where children are present. Nothing in this section shall prohibit a city or county from enacting or enforcing an ordinance relating to smoking in a family day care home if the ordinance is more stringent than this section.

(b) The smoking of a tobacco product on the premises of a licensed day care center shall be prohibited.

(c) For purposes of this section, "smoking" has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(d) For purposes of this section, "tobacco product" means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

*(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 14. (SB 5 2x) Effective June 9, 2016.)*

**1596.796.** Notwithstanding any other provision of law, payments are not required to be made to any person who provides child care services and is exempt from the licensing requirements of this chapter, Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) if that person either is known to have tuberculosis, or to have been convicted of any crime involving violence against, or abuse or neglect of, children.

This section shall not be construed to create an affirmative duty on any individual, government body, or other entity paying for child care to investigate the person to whom payments are being made nor shall it be construed to create any liability for failure to investigate that person.

To the extent that this section is inconsistent with federal law, it shall be inoperative.

*(Added by Stats. 1991, Ch. 1190, Sec. 13. Effective October 14, 1991. Provisions inoperative to extent inconsistent with federal law.)*

**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.

*(Added by Stats. 1997, Ch. 550, Sec. 3. Effective January 1, 1998.)*

**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.

*(Added by Stats. 1998, Ch. 625, Sec. 2. Effective September 21, 1998.)*

**1596.7985.** (a) (1) On or before July 1, 2027, the department, in consultation with the Emergency Medical Services Authority (EMSA) and the State Department of Education, shall establish an anaphylactic policy that sets forth guidelines and procedures recommended for child day care facility trained staff to prevent a child from suffering from anaphylaxis and to be used during a medical emergency resulting from anaphylaxis.

(2) On and after January 1, 2028, a child day care facility may implement the anaphylactic policy developed by the department pursuant to paragraph (1).

(3) On and after January 1, 2028, upon enrollment of a child at a child day care facility, and annually thereafter, the child day care facility shall notify the parent or guardian of the anaphylactic policy developed by the department pursuant to paragraph (1), if the facility has adopted a policy. The notice shall include contact information for a parent or guardian to engage further with the child day care facility to learn more about the policy and notification of the liability limitations set forth in Section 1799.102 of this code and Section 1714.23 of the Civil Code.

(4) The policy shall be developed in consultation with representatives from the following:

(A) Pediatric physicians and other health care providers with expertise in treating children with anaphylaxis.

(B) Parents of children with life-threatening allergies.

(C) Child day care facility administrators and staff.

(D) Not-for-profit corporations that represent allergic individuals at risk for anaphylaxis.

(E) A certified provider organization.

(5) In developing the policy, the department shall consider existing requirements and current and best practices for child day care facilities on allergies and anaphylaxis. The department shall also consider any voluntary guidelines issued by the United States Department of Health and Human Services for managing food allergies in child day care facilities.

(6) The EMSA shall review minimum standards of training for the administration of epinephrine auto-injectors, as necessary, and notify the department if any changes to the training course described in subparagraph (C) of paragraph (7) are needed. Training established pursuant to this subdivision shall be consistent with the most recent Voluntary Guidelines for Managing Food Allergies In Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention and Section 1797.197a.

(7) The anaphylactic policy shall include all of the following:

(A) (i) A process for a child day care facility to solicit volunteers among its employees to be trained and to administer emergency epinephrine auto-injectors to provide emergency medical aid to a child in care who is suffering, or reasonably believed to be suffering, from anaphylaxis. The process to solicit volunteers shall include a statement that there shall be no retaliation against any employee who chooses not to volunteer or who rescinds their offer to volunteer, including after receiving training.

(ii) Trained staff may administer emergency epinephrine auto-injectors to provide medical aid to a child in care who is suffering, or reasonably believed to be suffering, from anaphylaxis at a child day care facility during operating hours.

(iii) Section 1799.102 of this code and Section 1714.23 of the Civil Code apply to trained staff of a child day care facility, as defined in Section 1596.750, who administer emergency epinephrine auto-injectors to a child in care pursuant to this section.

(B) (i) A procedure and treatment plan, including emergency protocols and responsibilities, for trained staff responding to a child suffering, or reasonably believed to be suffering, from anaphylaxis.

(ii) The procedure and treatment plan shall ensure trained staff have access to an appropriate weight-based dosage epinephrine auto-injector, if applicable, as specified in Section 49414 of the Education Code.

(iii) The procedure and treatment plan shall ensure trained staff have access to epinephrine auto-injectors stored in a secure place at the site.

(C) A training course for child day care facility staff shall include, but not be limited to, the following:

- (i) Techniques for preventing, recognizing the symptoms of, and responding to anaphylaxis.
- (ii) Standards and procedures for the storage, restocking, and emergency use of epinephrine auto-injectors.
- (iii) Emergency followup procedures, including calling the emergency 911 telephone number and contacting, if possible, the child's parent or guardian and physician.
- (iv) Instruction on how to determine whether to use a pediatric or adult epinephrine auto-injector.
- (v) Written materials covering the information required by this subparagraph.

(D) Appropriate guidelines for each child day care facility to develop an individual emergency plan for children with a food or other allergy that could result in anaphylaxis.

(E) A process for a child day care facility to obtain either of the following from the parent or guardian of each child in care:

- (i) Prior written consent to the emergency administration of epinephrine auto-injectors by trained staff to the child who is suffering, or reasonably believed to be suffering, from anaphylaxis.
- (ii) A written statement objecting to the emergency administration of epinephrine auto-injectors by trained staff to the child who is suffering, or reasonably believed to be suffering, from anaphylaxis.

(F) Strategies for the reduction of the risk of exposure to children of anaphylactic causative agents, including food and other allergens.

(b) (1) On or before September 1, 2027, the department and the State Department of Education shall publish the anaphylactic policy developed pursuant to paragraph (1) of subdivision (a) on each of the departments' internet websites.

(2) The anaphylactic policy shall be updated by the department as necessary, in consultation with the EMSA and the State Department of Education.

(c) This section shall not be construed to preempt, modify, or amend a child day care facility's requirement to comply with existing federal and state disability laws, or the requirements related to a child's individualized family service plan or individualized education program.

(d) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by this section through letters or similar written instructions that shall have the same force and effect as regulations until regulations are adopted.

(e) For the purposes of this section, the following terms have the following meanings:

(1) "Anaphylaxis" means a potentially life-threatening hypersensitivity or allergic reaction to a substance.

(A) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(B) Causes of anaphylaxis may include, but are not limited to, insect stings or bites, foods, drugs, and other allergens, as well as idiopathic or exercise-induced anaphylaxis.

(2) "Epinephrine auto-injector" means a disposable delivery device designed for the automatic injection of a premeasured dose of epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

(3) "Trained staff" means an employee of a child day care facility, as defined in Section 1596.750, who has volunteered to administer epinephrine auto-injectors to a person if the child in care is suffering, or reasonably believed to be suffering, from anaphylaxis, has been designated by the licensee, and has received training pursuant to subparagraph (C) of paragraph (7) of subdivision (a).

*(Added by Stats. 2024, Ch. 563, Sec. 1. (AB 2317) Effective January 1, 2025.)*

**1596.799.** (a) Notwithstanding Section 1597.05 or any other law, a drop-in childcare center shall not be required to do either of the following:

- (1) Verify children's immunizations or tuberculosis testing.
- (2) Maintain files regarding children's immunizations or tuberculosis testing.

(b) Upon admission of a child into a drop-in childcare center, if the medical assessment required by department regulations is not available for a child, then the licensee shall obtain a written health assessment completed by the child's authorized representative. Except as provided in subdivision (a), a written health assessment shall include the same information and be maintained in the same manner as a medical assessment required by department regulations. A drop-in childcare center shall not require physician approval of the health assessment completed by the child's authorized representative.

(c) Upon admission of a child into a drop-in childcare center, the child's authorized representative shall sign an acknowledgment that they understand that verification of immunizations and tuberculosis testing is not required for any child accepted into a drop-in childcare center.

(d) This section shall not be construed to exempt a drop-in childcare center from any other licensing requirement.

*(Amended by Stats. 2024, Ch. 933, Sec. 2. (AB 772) Effective January 1, 2025.)*

**1596.7995.** (a) (1) Commencing September 1, 2016, a person shall not be employed or volunteer at a day care center if he or she has not been immunized against influenza, pertussis, and measles. Each employee and volunteer shall receive an influenza vaccination between August 1 and December 1 of each year.

(2) If a person meets all other requirements for employment or volunteering, as applicable, but needs additional time to obtain and provide his or her immunization records, the person may be employed or volunteer conditionally for a maximum of 30 days upon signing and submitting a written statement attesting that he or she has been immunized as required.

(b) A person is exempt from the requirements of this section only under any of the following circumstances:

(1) The person submits a written statement from a licensed physician declaring that because of the person's physical condition or medical circumstances, immunization is not safe.

(2) The person submits a written statement from a licensed physician providing that the person has evidence of current immunity to the diseases described in subdivision (a).

(3) The person submits a written declaration that he or she has declined the influenza vaccination. This exemption applies only to the influenza vaccine.

(4) The person was hired after December 1 of the previous year and before August 1 of the current year. This exemption applies only to the influenza vaccine during the first year of employment or volunteering.

(c) The day care center shall maintain documentation of the required immunizations or exemptions from immunization, as set forth in this section, in the person's personnel record that is maintained by the day care center.

(d) Section 1596.890 does not apply to a violation of this section.

(e) For purposes of this section, "volunteer" means any nonemployee who provides care and supervision to children in care.

*(Added by Stats. 2015, Ch. 807, Sec. 1. (SB 792) Effective January 1, 2016.)*

**1596.7996.** (a) A licensed child day care facility, upon enrolling or reenrolling any child, shall provide the parent or guardian with written information, to be developed by the department, in consultation with the State Department of Public Health, on all of the following:

(1) Risks and effects of lead exposure.

(2) Blood lead testing recommendations and requirements.

(3) Options for obtaining blood lead testing, including any state or federally funded programs that offer free or discounted tests.

(b) For purposes of this section, "child day care facility" has the same meaning as in Section 1596.750.

*(Added by Stats. 2018, Ch. 676, Sec. 1. (AB 2370) Effective January 1, 2019.)*