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AB-1722 Pupil health: credentialed school nurses, registered nurses, and licensed vocational nurses.
(2023-2024)

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Assembly Bill No. 1722

CHAPTER 853

An act to amend Sections 49452 and 49455 of, and to add and repeal Section 49426.5 of, the Education Code, relating to pupil health.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1722, Megan Dahle. Pupil health: credentialed school nurses, registered nurses, and licensed vocational nurses.

(1) Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the governing board of a school district to employ properly certified persons for that work. Existing law authorizes a school nurse, if authorized by the governing board of the school district, to perform various pupil health care services. Existing law requires a school nurse to be currently licensed as a registered nurse, as provided, and to have met the minimum requirements for a credential in school nursing, as specified.

This bill would require a licensed vocational nurse, as defined, hired pursuant to this bill to be supervised by a credentialed school nurse, as defined, who is employed as a school nurse at the same local educational agency (LEA) or at another LEA. The bill would prohibit interpreting that provision to allow a licensed vocational nurse to go beyond the approved scope of practice pursuant to the Vocational Nursing Practice Act. The bill would require an LEA employing a credentialed school nurse who is supervising a licensed vocational nurse at another LEA, and a credentialed school nurse who is supervising a licensed vocational nurse at another LEA, pursuant to these provisions to have indemnification for the supervisorial liability, as specified. The bill would require certain LEAs to enter into a written agreement containing specified information, including, among other information, a communication policy delineating how the licensed vocational nurse and the credentialed school nurse are to communicate, as provided. The bill would require an LEA to only hire a licensed vocational nurse if a diligent search has been conducted for a suitable credentialed school nurse each school year, as provided. The bill would require a local educational agency to seek approval from its governing board or body before hiring a licensed vocational nurse, including by submitting a declaration to its governing board or body containing certain information. The bill would require a local educational agency electing to hire a licensed vocational nurse to certify to the State Department of Education, upon penalty of perjury, that a diligent recruitment effort to hire a credentialed school nurse was made. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program.

The bill would, if an LEA uses its authority pursuant to the above-mentioned provisions, require the local educational agency to report its use of that authority to the department. The bill would require the department to, on or before January 1, 2028, submit a report to the Legislature containing a list of the LEAs that have used that authority, as provided. The bill would repeal the above-mentioned provisions on January 1, 2029.

(2) Existing law requires the governing board of a school district to provide for the adequate testing of the sight and hearing of each pupil enrolled in the schools of the school district to be given only by specified persons, including, among others, certificated employees of the school district or of the county superintendent of schools who possess the qualifications prescribed by the Commission for Teacher Preparation and Licensing.

This bill would expand that described authorization to allow those tests to be additionally given by certificated employees, registered nurses, or licensed vocational nurses, under the supervision of a credentialed school nurse, of the school district, charter school, or the county superintendent of schools who possess the qualifications prescribed by the Commission on Teacher Credentialing.

(3) Existing law requires a school nurse or other authorized person to appraise the vision of a pupil during kindergarten, or upon first enrollment or entry of that pupil in a California school district at an elementary school, and in grades 2, 5, and 8, as specified. Existing law requires this appraisal to include tests for visual acuity, including near vision and color vision, as provided.

This bill would require the vision appraisal to additionally include tests for far vision. To the extent this imposes additional duties on school districts, the bill would impose a state-mandated local program.

(4) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 49426.5 is added to the Education Code, to read:

49426.5. (a) A licensed vocational nurse hired pursuant to this section shall be supervised by a credentialed school nurse who is employed as a school nurse at the same local educational agency or at another local educational agency.

(b) (1) If a local educational agency elects to hire a licensed vocational nurse to be supervised by a credentialed school nurse employed by another local educational agency, both local educational agencies shall enter into a written agreement containing all of the following:

(A) The duties of the credentialed school nurse and the licensed vocational nurse.

(B) A communication policy delineating how the licensed vocational nurse and the credentialed school nurse are to communicate.

(C) The indemnification requirement pursuant to subdivision (h).

(D) The financial arrangement between the local educational agencies.

(E) The additional compensation for the credentialed school nurse to act as a supervisor.

(2) A local educational agency is only authorized to hire a licensed vocational nurse pursuant to this subdivision if a written agreement with another local educational agency is in place.

(c) (1) A local educational agency shall only hire a licensed vocational nurse pursuant to this section if a diligent search has been conducted for a suitable credentialed school nurse each school year. A diligent search shall include, but is not limited to, distributing job announcements, contacting college and university placement centers, and advertising in print or electronic media. Copies of all recruitment efforts and the salary or salary range advertised as part of the recruitment efforts shall be retained by the employing agency.

(2) A local educational agency shall seek approval from its governing board or body before hiring a licensed vocational nurse pursuant to this section, including by submitting a declaration to its governing board or body containing all of the following:

(A) That the local educational agency made a diligent effort to recruit a credentialed school nurse with the proper qualifications for the opening.

(B) That the effort to recruit a credentialed school nurse was not successful.

(C) That hiring a licensed vocational nurse is necessary to fulfill a critical need.

(3) A local educational agency electing to hire a licensed vocational nurse pursuant to this section shall certify to the department, upon penalty of perjury, that a diligent recruitment effort to hire a credentialed school nurse was made.

(d) Subdivision (a) shall not be interpreted to allow a licensed vocational nurse to go beyond the approved scope of practice pursuant to the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code).

(e) A licensed vocational nurse hired pursuant to this section shall only operate under the supervision of a credentialed school nurse based on levels of supervision described in Section 3051.12 of Title 5 of the California Code of Regulations.

(f) County offices of education are encouraged to establish networks of credentialed school nurses for employment by local educational agencies that are not able to hire a credentialed school nurse. County offices of education are encouraged to provide mentoring opportunities for licensed vocational nurses.

(g) A local educational agency employing a credentialed school nurse who is supervising a licensed vocational nurse at another local educational agency pursuant to this section shall have indemnification for the supervisorial liability from the local educational agency employing the licensed vocational nurse.

(h) A credentialed school nurse who is supervising a licensed vocational nurse at another local educational agency pursuant to this section shall have indemnification for the supervisorial liability from the local educational agency employing the licensed vocational nurse.

(i) If a local educational agency uses its authority pursuant to this section, the local educational agency shall report its use of that authority to the department.

(j) (1) On or before January 1, 2028, the department shall submit a report to the Legislature containing a list of the local educational agencies that have used their authority pursuant to this section.

(2) The report submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(k) As used in this section, the following terms have the following meanings:

(1) "Credentialed school nurse" means only qualified persons who possess an appropriate credential issued pursuant to Section 44267.5.

(2) "Licensed vocational nurse" means a person licensed pursuant to the provisions of Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code.

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

(l) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 2. Section 49452 of the Education Code is amended to read:

49452. (a) The governing board of a school district shall, subject to Section 49451, provide for the testing of the sight and hearing of each pupil enrolled in the schools of the school district.

(b) The test shall be adequate in nature and shall be given only by any of the following:

(1) By duly qualified supervisors of health employed by the school district.

(2) By certificated employees, registered nurses, or licensed vocational nurses, under the supervision of a credentialed school nurse, of the school district, charter school, or the county superintendent of schools who possess the qualifications prescribed by the Commission on Teacher Credentialing.

(3) By contract with an agency duly authorized to perform those services by the county superintendent of schools of the county in which the school district is located, under guidelines established by the state board.

(4) By accredited schools or colleges of optometry, osteopathic medicine, or medicine.

(c) The records of the tests shall serve as evidence of the need of the pupils for the educational facilities provided physically handicapped individuals. The equipment necessary to conduct the tests may be purchased or rented by governing boards of school districts. The state, any agency, or political subdivision thereof may sell or rent such equipment owned by it to the governing board of a school district upon terms as may be mutually agreeable.

(d) As used in this section, the following definitions apply:

(1) "Credentialed school nurse" means only qualified persons who possess an appropriate credential issued pursuant to Section 44267.5.

(2) "Licensed vocational nurse" means a person licensed pursuant to the provisions of Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code.

SEC. 3. Section 49455 of the Education Code is amended to read:

49455. (a) (1) During the kindergarten year or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8, the pupil's vision shall be appraised by the school nurse or other authorized person under Section 49452.

(2) A pupil whose first enrollment or entry occurs in grade 4 or 7 shall not be required to be appraised in the year immediately following the pupil's first enrollment or entry.

(b) The vision appraisal shall include tests for near vision, far vision, and color vision; however, color vision shall be appraised once and only on male pupils, and the results of the appraisal shall be entered in the health record of the pupil. Color vision appraisal need not begin until the male pupil has reached the first grade.

(c) The appraisal may be waived, if the pupil's parents so desire, by their presenting of a certificate from a physician and surgeon, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or an optometrist setting out the results of a determination of the pupil's vision, including visual acuity and color vision.

(d) A pupil's vision may be appraised by using an eye chart or any other scientifically validated photoscreening test. Photoscreening tests shall be performed, under an agreement with, or the supervision of, an optometrist or ophthalmologist, by the school nurse or a trained individual who meets requirements established by the department.

(e) Continual and regular observation of the pupil's eyes, appearance, behavior, visual performance, and perception that may indicate vision difficulties shall be done by the school nurse and the classroom teacher.

(f) This section shall not apply to a pupil whose parents or guardian file with the principal of the school in which the pupil is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion.

(g) The department shall adopt guidelines to implement this section, including training requirements and a method of testing for near vision.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.