

JAN 25 2006

A BILL FOR AN ACT

RELATING TO PUBLIC HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, based on reports
2 issued by the American Thoracic Society and the Centers for
3 Disease Control and Prevention, a majority of children entering
4 school nationwide are subject to mandatory tuberculin skin
5 testing, despite their low 0.1 to 1 per cent likelihood of
6 contracting a tuberculosis infection. When a positive result is
7 found among these low-risk children, more often than not, it is
8 a false-positive result caused by nonspecific reactivity or
9 exposure to nontuberculous mycobacteria in the environment.
10 These unfortunate false-positives can lead to unnecessary
11 health-care expenditures and anxiety for the child, family,
12 school, and health care workers.

13 A recent California study revealed widespread TB screening
14 of kindergarten and high school students yielded a low
15 prevalence of skin test reactors and only a limited number of
16 cases of TB. It is already common knowledge that risk factors
17 that dramatically increase the likelihood of tuberculosis
18 infection among children include the incidence of foreign birth,



1 exposure to a foreign-born person in the home, and recent travel
2 to certain parts of the world. In a cost-benefit analysis,
3 mandatory screening of all students could be expected to prevent
4 14.9 cases/10,000 children screened, whereas a testing method
5 that was narrowly targeted toward higher-risk populations could
6 prevent 84.9 cases/10,000 screened, and would be less costly.
7 Therefore, a more effective approach would be to perform
8 tuberculin skin testing only on those children with specific
9 risk factors for infection.

10 The legislature further finds that tuberculin skin testing
11 is closely related to vaccination in that both involve similar
12 physical and immunological processes that violate fundamental
13 religious teaching and natural hygiene laws which require strict
14 blood purity and genetic integrity. While current law provides
15 a religious exemption from vaccination, it only makes sense to
16 create an additional exemption from tuberculin skin testing,
17 also on religious grounds.

18 Additionally, the legislature finds that the term
19 "immunization" does not exclusively imply "vaccination," and
20 vaccinations do not necessarily infer immunity against
21 infectious diseases. Thus, the word "immunization" has been



1 misapplied in the state statutes pertaining to vaccinations, and
2 should be changed to "vaccination" where it appears.

3 Last, the legislature finds that parents and legal
4 guardians of children are entitled to a full disclosure of risks
5 from vaccination and tuberculin skin testing, and the
6 availability of alternatives to these medical procedures. One
7 way to provide personal assistance to persons lacking the
8 capacity to make decisions about such complex health matters,
9 and to promote communication and understanding between health
10 practitioners and their patients, is to require compliance with
11 certain informed consent procedures before the administration of
12 vaccinations and tuberculin skin testing.

13 The purpose of this act is to clarify the vaccination,
14 tuberculosis skin testing and exemption standards for children
15 who are entering school. It creates an exemption from
16 tuberculin skin testing as a prerequisite for school entry on
17 religious grounds, replace the ambiguous term "immunization"
18 with "vaccination" where it pertains to vaccination, and require
19 informed consent procedures for vaccination and tuberculin skin
20 testing performed by health practitioners.

21 SECTION 2. Section 302A-1156, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§302A-1156 Exemptions.** A child may be exempted from the
2 required immunizations:

3 (1) If a licensed physician certifies that the physical
4 condition of the child is such that immunizations
5 would endanger the child's life or health; or

6 (2) If any parent, custodian, guardian, or any other
7 person in loco parentis to a child objects to
8 immunization or tuberculin skin testing in writing on
9 the grounds that the immunization or tuberculin skin
10 testing conflicts with that person's bona fide
11 religious tenets and practices. Upon showing the
12 appropriate school official satisfactory evidence of
13 the exemption, no certificate or other evidence of
14 immunization shall be required for entry into school."

15 SECTION 3. Sections 302A-1154 through 302A-1158, and
16 302A-1160 through 302A-1163, Hawaii Revised Statutes, are
17 amended by substituting the terms "vaccination" or "vaccinated"
18 for "immunization" and "immunized" wherever those terms appear.

19 SECTION 4. Section 671-3, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§671-3 Informed consent.** (a) The board of medical
22 examiners may establish standards for health care providers to



1 follow in giving information to a patient, or to a patient's
2 guardian or legal surrogate if the patient lacks the capacity to
3 give an informed consent, to ensure that the patient's consent
4 to vaccination, tuberculin skin testing, or treatment is an
5 informed consent. The standards shall be consistent with
6 subsection (b) and may include:

- 7 (1) The substantive content of the information to be
8 given;
- 9 (2) The manner in which the information is to be given by
10 the health care provider; and
- 11 (3) The manner in which consent is to be given by the
12 patient or the patient's guardian or legal surrogate.

13 (b) The following information shall be supplied to the
14 patient or the patient's guardian or legal surrogate prior to
15 obtaining consent to a proposed medical or surgical treatment,
16 [~~or~~] a diagnostic or therapeutic procedure, a vaccination, or
17 tuberculin skin testing:

- 18 (1) The condition to be treated, tested for, or vaccinated
19 against;
- 20 (2) A description of the proposed treatment or procedure;
- 21 (3) The intended and anticipated results of the proposed
22 treatment or procedure;

- 1 (4) The recognized alternative treatments or procedures,
2 including the option of not providing these treatments
3 or procedures and the statutory exemptions available;
4 (5) The recognized material risks of serious complications
5 or mortality associated with:
6 (A) The proposed treatment or procedure;
7 (B) The recognized alternative treatments or
8 procedures; and
9 (C) Not undergoing any treatment or procedure; and
10 (6) The recognized benefits of the recognized alternative
11 treatments or procedures.
12 (c) On or before January 1, 1984, the board of medical
13 examiners shall establish standards for health care providers to
14 follow in giving information to a patient or a patient's
15 guardian, to ensure that the patient's consent to the
16 performance of a mastectomy is an informed consent. The
17 standards shall include the substantive content of the
18 information to be given, the manner in which the information is
19 to be given by the health care provider and the manner in which
20 consent is to be given by the patient or the patient's guardian.
21 The substantive content of the information to be given shall



1 include information on the recognized alternative forms of
2 treatment.

3 (d) Nothing in this section shall require informed consent
4 from a patient or a patient's guardian or legal surrogate when
5 emergency treatment or an emergency procedure is rendered by a
6 health care provider and the obtaining of consent is not
7 reasonably feasible under the circumstances without adversely
8 affecting the condition of the patient's health.

9 (e) For purposes of this section, "legal surrogate" means
10 an agent designated in a power of attorney for health care or
11 surrogate designated or selected in accordance with chapter
12 327E."

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

16 INTRODUCED BY: Bunelles, Kohl
B/R

17

Report Title:

Vaccinations

Description:

Creates an exemption on religious grounds from tuberculin skin testing as a prerequisite for school entry, clarifies "vaccination" requirements for school entry, and requires informed consent procedures for vaccination and tuberculin skin testing performed by health care workers.

