

SB 276 (Pan - Immunization Exemptions) - Questions & Answers

Does SB 276 undermine parental or physician's rights?

No, under SB 276 parents will continue to have the right to seek exemptions, and physicians will continue to have the right to procure exemptions, whenever there is a medical necessity for the child to be exempted from the legally required vaccines. Current law already states that to issue a medical exemption, physicians must provide a written statement that the child's physical condition or medical circumstances are such that "immunization is not considered safe." If passed, SB 276 will simply ensure consistency and quality by weighing all exemptions against the same safety guidelines—the CDC ACIP Contraindications and Precautions.

If there are only a small number of physicians acting unethically, why is this bill necessary?

Unfortunately, even a few physicians abusing the medical exemption process can have a big impact on local public health. Even a single physician can create outsized clusters of unvaccinated individuals in a community that puts vaccine rates below the 95 percent needed to prevent measles outbreaks, and leaves many people susceptible to the disease. Plus, some physicians are known to have issued large numbers of exemptions. For example, a single physician in San Diego was responsible for almost a third of the nearly 500 exemptions issued within the local school district over a several year period.

Does the bill specify which conditions are acceptable for receiving a medical exemption?

No. SB 276 makes no changes to the standard of care with respect to what is a valid medical exemption. The federal Centers of Disease Control and Prevention's (CDC) Advisory Committee on Immunization Practices (ACIP) publishes up-to-date guidelines on contraindications and precautions. They can be found in full here: <https://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html>, and a comprehensive chart can be found here: <http://www.immunize.org/catg.d/p3072a.pdf>. To ensure that our state's health officials can make adjustments as CDC guidelines are updated, SB 276 references these guidelines rather than specifying conditions within the law.

Does the bill specify a timeline or deadline for exemption approval?

No. The only timeline or deadline specified within SB 276 is that existing exemptions must be filed with the California Department of Public Health (CDPH) by July 1, 2020. This will allow CDPH to determine the best timeline for the exemption process.

Why does the bill language state "physician and surgeon"? Does it mean that parents must visit two different providers?

No. The phrase "physician and surgeon" is a legal formality, and the language was included to ensure that the phrasing is consistent with that used by the Medical Board of California. Licenses for both general practice and specialist physicians use the phrase "physician and surgeon" to describe the physician (i.e., your pediatrician is a "physician and surgeon"). The phrase refers to a single provider, not two separate providers.

Wasn't SB 277 enough?

The approach with AB 2109, SB 277 and now SB 276 has been to make incremental changes, and only in response to escalating threats to our public health and community immunity. After a whooping cough outbreak in 2010 killed 10 infants in California, the legislature passed AB 2109 in 2012 requiring providers to counsel patients before opting out of mandated vaccines. While the bill was successful in raising vaccine rates, it was not enough to stave off a measles outbreak and in 2015, California was the epicenter of a large measles outbreak at Disneyland. In response, the California legislature passed SB 277, making California the third state to allow only medical exemptions. However, since the passage of SB 277, medical exemptions have more than tripled (from 0.2% in 2015-16 to 0.7% in 2017-18). The rise is explained by parents who have sought out some unscrupulous doctors who have monetized their medical license by providing large numbers of exemptions for profit. As a result of pockets of dangerously low vaccine rates, measles outbreaks are on the rise in California.

Has this model been implemented elsewhere? I heard it's like West Virginia's process?

Yes, the medical exemption process outlined in SB 276 is very similar to the process West Virginia has had in place since 2015. West Virginia allows only medical exemptions and requires approval from a public health official for all exemptions. Under SB 276, CDPH will outline a process unique to the needs of California, but West Virginia's process can be found here: <https://oeps.wv.gov/Pages/Medical-Exemptions-Information.aspx>

Can't the California Medical Board just go after the "bad apple" doctors?

The Medical Board's process isn't designed for this situation, and has not been effective in preventing abuse of the exemption process. Since the passage of SB 277, the Board has only completed one investigation related to medical exemptions. The Medical Board is only aware of cases that are specifically reported. Even when a physician is reported, the Board usually doesn't have enough information to investigate questionable exemptions unless the parents choose to share it, which is not likely going to happen in these situations because the parents are working in concert with the physician. And, the Medical Board can only act after the fact—they cannot prevent or invalidate unjustified medical exemptions.

How many children in California have medical exemptions?

As of the 2017-2018 school year, 4,111 children in California had medical exemptions.

Does SB 276 follow the West Virginia model? What about Mississippi?

Our bill follows the West Virginia model, but has some differences. Our bill refers specifically to CDC guidelines. Mississippi has a similar model, but our understanding is that their implementation of the public health review process isn't as rigorous.

Will DPH be able to make these decisions quickly? What is the ideal timeframe?

We added an amendment that specifies that the review and approval process should be conducted, and the determination communicated, in a timely manner. We are confident that the department will design a process that is efficient and effective.