



A VOICE FOR CHOICE
ADVOCACY

**AVFCA Oppose Unless Amended
SB 866 Minors: vaccine consent (Wiener/Pan)**

June 7, 2022

Members of the California Assembly
State Capitol,
Sacramento, CA 95814

Dear Members of the California Assembly:

SB 866 barely made it through the committees it was heard in and only passed the Senate floor by one vote. Legislators on both sides of the aisle have voiced concern that this bill needs guardrails to ensure there are no unintended consequences. Many of those concerns mirror our concerns. A Voice for Choice Advocacy has shared reasonable amendment language (see Appendix A at the end of the letter) with Senator Wiener, without success. **On behalf of A Voice for Choice Advocacy, I ask you to oppose or abstain from voting on SB 866, unless it is amended.**

Senator Wiener has stated the goal of SB 866 is two-fold. 1) To ensure those 12+ year old minors who want to get a vaccine against their parent's or guardian's wishes, can do so and 2) that those 12+ year old minors whose parents or guardians are too busy to accompany them to get a vaccine can get it themselves. SB 866 as currently written is overly broad for the first goal and is unnecessary for the second goal. During the COVID-19 pandemic vaccination sites made disclosure and consent forms available for parents to sign for their children to bring with them if they were not able to accompany their child. Here is an example of such a form from Los Angeles Unified School District:

https://achieve.lausd.net/cms/lib/CA01000043/Centricity/Domain/1262/090921%20Updated%20Vaccination%20Minor%20Consent%20Form%20English_Spanish.pdf. Such forms could be made readily available by vaccine administrators on their websites.

Our concerns with SB 866 are as follows:

- The bill subverts the right and duty of parents to make informed decisions about whether or not their children should receive medical treatment, without any finding that the parent is unfit.
- As currently written the bill would violate federal law, specifically because it directly contradicts the National Childhood Vaccine Injury Act of 1986. (<https://www.congress.gov/bill/99th-congress/house-bill/5546>). Specifically, this federal law states that “each health care provider who administers a vaccine set forth in the Vaccine Injury Table shall provide to the legal representatives (a parent or an individual who qualifies as a legal guardian under State law) of any child or to any other individual to whom such provider intends to administer such vaccine a copy of the information materials developed pursuant to subsection (a)”. The DC District Court has made it clear that interpreted federal law requires parents or legal guardians must be given the vaccine information statements prior to the child being given the vaccine, and not the child.



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- The bill creates a structure of distrust between the parent and the child and health care provider.
- While some 12+ year old minors may be able to make rational, informed decisions, minors of the same age have varying levels of maturity. Furthermore, the significant changes in adolescent brains mean 12+ year old minors are, more than at any other age, disproportionately swayed by peer pressure, lack of self-regulation and rewards (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5422908/>). Over the past year, food and beverages, lottery tickets, peer pressure and much more have been used as incentives to push the COVID-19 vaccine. For an adolescent this preys on their immature cognition and prevents them from making unbiased, informed decisions.
- Minors may not know their full medical history and the potential risks of vaccination, and will not have knowledge what to look for if they do have an adverse reaction. If their parents are not aware of their 12+ year old minor's vaccination, treatment of a serious adverse reaction may be delayed because the parents could not convey the child's medical history accurately.
- The vaccine providers are taking on the adult role in the vaccine decision making process for a minor. Currently, per the federal Public Readiness and Emergency Preparedness Act and the National Childhood Vaccine Injury Act, vaccine providers have no liability if the child dies or suffers serious injuries directly caused by the administration of a vaccine. This would leave parents, who did not consent to the vaccination, fully responsible for the treatment of their child's injuries.
- If 12+ year old minors have the right to consent to vaccines without their parent's input, then 12+ year old minors should also have the right to decline vaccines without their parent's input.
- The bill "would not authorize the vaccine provider to provide any service that is otherwise outside the vaccine provider's scope of practice." The bill therefore allows for broad medical treatment for 12+ year old minors, during a visit where a vaccination is also administered, given most pediatric vaccine providers are physicians or pharmacists.

While we strongly oppose this bill, we would remove our opposition if the bill is amended to add language:

- To change the age to authorize consent to vaccines to a minor 16 years of age or older.
- To ensure those children with special needs are excluded.
- To ensure that all efforts are made to contact the parents prior to vaccination, similar to the San Francisco order (<https://www.sfdph.org/dph/alerts/files/Order-C19-19-Vaccination-Minors.pdf>)
- To require the vaccine provider obtain complete medical history from the minor's primary care provider, if they are not such, and conduct a physical examination and evaluation of the child consistent with the relevant standard of care prior to vaccinating.
- To require the non-parental consenting minor to fully read the appropriate CDC Vaccine Information Statement, and for them to be offered the manufacturer's vaccine package insert, prior to being vaccinated.



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- To require non-parental consenting minors be vaccinated in a physician's office, and not at a school clinic, mass vaccination site, pharmacy, reproductive care clinic or other location.
- To ensure non-parental consenting minors cannot be bribed, bullied or coerced to get a vaccination.
- To require the non-parental consenting minor's parent(s) be notified immediately after the vaccination is administered.
- To allow non-parental consenting minors not only to consent to vaccination without parental input, but also to decline vaccination without parental input.
- To amend (c) so that it "would not authorize the vaccine provider to provide any service ~~that is otherwise outside the vaccine provider's scope of practice~~ other than vaccination or treating any adverse reaction following the vaccination."
- To strike 120325. SEC. 2. Section 120325 (e) of the Health and Safety Code:
~~(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.~~ If this is not struck then amend this section so that it states these efforts are not targeted towards children but their parents.

Specific amendment language, prepared by A Voice for Choice Advocacy, can be found in Appendix A.

We ask you to oppose SB 866 and NOT to allow it to pass through the Assembly Judiciary Committee, unless it is amended as detailed above, as it is not narrowly tailored to its intended goal and it violates Federal law.

Thank you for your time and consideration. Please feel free to contact me if you have any questions.

Sincerely,

Christina Hildebrand

Christina Hildebrand,

President,

A Voice for Choice Advocacy, Inc.

christina@avoiceforchoice.org

Giving issues a voice, A Voice for Choice Advocacy advocates for people's rights to be fully informed about the composition, quality, and short- and long-term health effects of all products that go into people's bodies, such as food, water, air, pharmaceuticals and cosmetics.



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Appendix A

The following is specific Amendment language for SB 866, prepared by A Voice for Choice Advocacy:

6931. (a) A minor ~~12~~ 16 years of age or older, ~~excluding persons with exceptional needs as defined in Section 56026 of the Education Code or persons with a disability defined in Sections 12926 and 12926.1 of the Government Code and students on an IEP or 504,~~ may choose to consent to or decline a vaccine that is fully approved by the United States Food and Drug Administration and meets the recommendations of the Advisory Committee on Immunization Practices (ACIP) of the federal Centers for Disease Control and Prevention (ACIP) without the consent or declination of the parent or guardian of the minor.

(b) An authorized vaccine provider may administer a vaccine pursuant to subdivision (a). For purposes of this section, “authorized vaccine provider” means a person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or a clinic or health facility licensed pursuant to Division 2 (commencing with Section 1200 of the Health and Safety Code), or any other provider authorized by the state. Vaccines administered under this Section must be administered in a physician or surgeon’s office, not at a school clinic, mass vaccination site, pharmacy, reproductive care clinic or other location.

(c) Before administering a vaccine under this Section the authorized vaccine provider must:

1. Obtain and document a detailed medical history of the minor,
2. Provide the legal representative of the minor the Vaccine Information Statement at least 24 hours prior to the administration of the vaccine, and
3. Confirm and note in the medical record that:
 - A. the minor is capable of making an informed medical decision, and
 - B. the minor is not receiving any incentive or reward for being vaccinated, or is not being bribed, enticed or compelled to be vaccinated by an external or secondary source.

(ed) This section does not authorize a vaccine provider to provide any service ~~that is otherwise outside the vaccine provider’s scope of practice~~ other than vaccination or treating any adverse reaction following the vaccination.

Strike 120325. SEC. 2. Section 120325 (e) of the Health and Safety Code

~~(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children~~

(Note: If this is not struck then amend this section so that it states these efforts are not targeted towards children but their parents.)