Agency Name: Department of Health and Environmental Control

Statutory Authority: 01-23-130 and 44-29-150 through -170

Document Number: 4726

Final in State Register Volume and Issue: 40/11

Status: Emergency, effective for 90 days

Subject: The Evaluation of School Employees for Tuberculosis

History: 4726

By Date Action Description Jt. Res. No. Expiration Date

- 11/25/2016 Emergency Reg Published in SR

- 10/31/2016 Effective Date unless otherwise

 provided for in the Regulation

**Filed: October 31, 2016 1:46pm**

Document No. 4726

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Section 1-23-130 and 44-29-150 through -170

61-22. The Evaluation of School Employees for Tuberculosis.

**Emergency Situation**:

 The Department of Health and Environmental Control hereby re-files the emergency regulation for Regulation 61-22, originally filed on August 3, 2016 at 12:58 p.m. and published as Document No. 4654 in the South Carolina State Register on August 26, 2016.

 Section 44-29-150 of the South Carolina Code of Laws provides that “[n]o person will be initially hired to work in any public or private school, kindergarten, nursery or day care center for infants and children until appropriately evaluated for tuberculosis according to guidelines approved by the Board of Health and Environmental Control.” In addition, section 44-29-160 requires that “[a]ny person applying for a position in any of the public or private schools, kindergartens, nurseries, or day care centers for infants and children of the State shall, as a prerequisite to employment, secure a health certificate from a licensed physician certifying that such person does not have tuberculosis in an active stage.” In furtherance of these statutory requirements, the South Carolina Department of Health and Environmental Control (“DHEC” or the “Department”) first promulgated Regulation 61-22 effective May 22, 1981, setting forth guidance for the evaluation of school employees for tuberculosis. Except as discussed below, DHEC’s last revision to Regulation 61-22 occurred in 1986 (the “Prior Regulation”).

 In 2015, DHEC initiated the required statutory process to amend the Prior Regulation. DHEC submitted proposed revisions to the S.C. General Assembly on January 25, 2016, and the revised Regulation 61-22 (the “Revised Regulation”) took effect as law by publication as Document No. 4609 in the S.C. State Register, Volume 40, Issue 6, on June 24, 2016.

 DHEC recognized that the short time period between adoption of the Revised Regulation and the start of the new school year created significant hardships for schools, nurseries and day cares in meeting the Revised Regulation’s new requirements. Consequently, DHEC determined that there existed the real likelihood that the new regulatory requirements could not be implemented before school begins, which placed the public’s welfare in imminent peril. To alleviate strain on school, nursery and day care operations, and to eliminate risk to the public’s welfare, DHEC found the enactment of an emergency regulation necessary and filed the same on August 3, 2016. DHEC finds that the conditions supporting the filing of the emergency regulation continue to exist and that re-filing and enactment of this emergency regulation is necessary.

 Through this emergency regulation, DHEC will continue to toll the implementation of the Revised Regulation and reinstate the Prior Regulation, thereby enacting requirements both protective of public health and attainable with respect to compliance.

**Text:**

**61-22. The Evaluation of School Employees for Tuberculosis.**

 (Statutory Authority: 1976 Code Sections 44‑29‑150, 44‑29‑160, 44‑29‑170)

 (Public or Private School, Kindergarten, Nursery or Day Care Center)

**I. INTRODUCTION**

 In April, 1979, the South Carolina General Assembly amended Section 44-29-150 and Section 44-29-160 of the 1976 Code of Laws pertaining to evaluation of school employees for tuberculosis. Section 44-29-150 authorizes the Department of Health and Environmental Control to establish guidelines for the evaluation of school employees for tuberculosis as required by the law. The amended law and the guidelines modernize the approach to screening for tuberculosis and take into account contemporary scientific and epidemiologic principles. Under the amended law and the guidelines, most school employees will need to be screened for tuberculosis only one time and will not be required to be evaluated annually. This selective screening policy, based on epidemiologic information, is combined with a policy concerning preventive treatment of tuberculosis infection. These policies will afford children greater protection against exposure to tuberculosis in the school environment than do previous policies.

**II. RATIONALE**

 Tuberculin skin testing and preventive treatment are emphasized rather than x-ray screening for the following reasons:

 A. Most individuals who are infected with living tubercle bacilli have normal chest x-rays. Most of these same individuals, however, are tuberculin reactors, i.e., they have a positive reaction to a tuberculin skin test.

 B. Only about 10% of individuals infected with tubercle bacilli will ever develop tuberculosis disease. “Infected” individuals are not sick, are not contagious, and are not counted as cases of tuberculosis. “Diseased” individuals are sick, are often contagious, and are considered to be TB cases. X-rays cannot prevent infection from progressing to disease. This progression may occur years, or decades, after the actual date of infection. X-rays can only reveal tuberculosis disease after it has developed. Preventive treatment of infection with the anti-tuberculosis drug isoniazid (INH) can prevent infection from progressing to disease. These points are summarized in the table below:

|  |  |  |  |
| --- | --- | --- | --- |
|  | Value fordetectingTB infection | Value fordetectingTB disease | Value for preventinginfection from pro-gressing to disease |
|  |  |  |  |
| Chest x-ray | Limited | Excellent | No value |
| Tuberculinskin test | Excellent | Limited | No value |
| Preventivetreatmentwith INH | No value | No value | Excellent |

 A school employee who is not infected (a non-reactor to the tuberculin skin test) has a negligible chance of ever becoming infected with tubercle bacilli. Therefore, many such employees will not need routine annual screening for tuberculosis. Unusual circumstances in which non-routine screening may be required are discussed below.

 Employees who are found to be infected, i.e., reactors to the tuberculin skin test (about 5-10% anticipated), will require a chest x-ray to verify that they do not also have disease. Most (over 99%) will be found to be free of disease, but they retain a lifelong risk of developing disease. INH preventive treatment will be medically recommended for some, but not for all, infected individuals. Employees who are infected, but who either should not or will not take preventive treatment, shall have a notation made in their school personnel record that the individual is considered to be infected with tubercle bacilli and remains at lifelong risk of developing tuberculosis disease. Employees who are found to have current or past tuberculosis disease shall not be allowed to work until the individual receives written certification by a licensed physician that the individual is non-contagious.

**III. DEFINITIONS**

 For the purpose of the evaluation of school employees for tuberculosis, the following definitions and clarifications shall apply:

 A. School employees: Teachers and all other persons employed by the Board of Trustees.

 B. New employee: Individual being initially hired.

 C. Regular employee: Individual hired in the past.

 D. Tuberculin skin test: Test done by intradermal injection (Mantoux Method) of 5 tuberculin units (5TU) of purified protein derivative (PPD).

 E. Tuberculin reactor: Individual found to have 10mm or more of induration 48-72 hours after intradermal injection of 5TU-PPD.

 F. Non-reactor: Individual found to have less than 10mm of induration 48-72 hours after intradermal injection of 5TU-PPD.

 G. Tuberculosis infection: Presence of living tubercle bacilli in the body of an asymptomatic, non-infectious individual, as diagnosed by the tuberculin skin test.

 H. Tuberculosis disease: Illness, often contagious, usually diagnosed by chest x-ray and culture of tubercle bacilli from sputum.

 I. Preventive treatment with INH: Treatment to prevent tuberculosis disease from developing in tuberculin reactors.

 J. Adequate treatment: Therapy with anti-tuberculosis drugs that is determined to be sufficient for the treatment of infection or disease.

 K. Non-routine screening: Screening that may be required in special circumstances where there is epidemiologic evidence that school employees may have become infected or infectious. Examples of such circumstances are: (1) whenever employees are identified as close contacts of tuberculosis cases; (2) whenever tuberculosis cases are known to have occurred in the school environment; (3) whenever employees are observed to have signs or symptoms suggestive of tuberculosis.

**IV. GUIDELINES FOR SCREENING/EVALUATION**

 A. Required screening/evaluation:

 1. New employees shall have a tuberculin skin test prior to employment.

 2. Regular employees with no documented 5TU-PPD tuberculin skin test shall have a tuberculin skin test as a condition for continued employment.

 3. Regular employees documented to have been tuberculin reactors to a prior tuberculin skin test shall not be required to have a tuberculin skin test but shall have their records reviewed. If a prescribed course of preventive treatment with INH has been completed, no further evaluation shall be required. If preventive treatment with INH has not been completed, a notation shall be made in their school personnel record on DHEC Form 1420, that the individual is considered to be infected and remains at lifelong risk of developing TB disease.

 4. New or regular employees with a history of tuberculosis disease shall have their records reviewed by a licensed physician certifying them as non-infectious, on DHEC Form 1420 to be kept on file in their school personnel record.

 B. Disposition following results of screening/evaluation:

 1. New or regular employees found to be non-reactors to a 5TU-PPD tuberculin skin test shall require no further routine annual screening.

 2. New or regular employees found to be tuberculin reactors shall have a chest x-ray.

 a. If a chest x-ray (and sputum cultures, if necessary) of a tuberculin reactor shows no evidence of current tuberculosis disease, the employee shall be evaluated for preventive treatment with INH.

 (i) If INH is medically indicated and if the employee takes INH as prescribed, no further routine annual screening shall be required, except when medically indicated.

 (ii) If INH is not medically indicated or if the employee for whom INH is indicated does not take INH preventive treatment, a notation shall be made in the employee’s school personnel record on DHEC Form 1420, that the individual is considered to be infected and remains at lifelong risk of developing tuberculosis disease.

 b. If a chest x-ray (and sputum cultures, if necessary) of a tuberculin reactor shows evidence of current tuberculosis disease, the employee shall not be allowed to work in any public or private school, kindergarten, nursery or day care center, until written certification by a licensed physician is received stating that the individual is noncontagious. Certification shall be subject to review by the Department of Health and Environmental Control or delegated representatives in county health departments. This provision applies to an employee found to have tuberculosis disease at the time of hiring or at any other time.

 3. New employees with a history of tuberculosis disease shall be required to have their records reviewed by a licensed physician certifying them as non-infectious, on DHEC Form 1420, to be kept on file in their school personnel record.

 C. Documentation of results of screening/evaluation:

 1. Results of the required screening/evaluation and the subsequent disposition for each employee shall be recorded on DHEC Form 1420 as provided for in Section 44-29-170. These forms shall be kept on file by the principal (or the director/administrator) of the public or private school, kindergarten, nursery or day care center of current employment. These forms shall be available for review by representatives of the Department of Health and Environmental Control.

 2. If an employee transfers to another public or private school, kindergarten, nursery or day care center, no additional screening/evaluation for tuberculosis shall routinely be required beyond that which is described above, provided the form on file at the place of immediate past employment is submitted to the principal (or the director/administrator) of the public or private school, kindergarten, nursery or day care center of current employment.

 D. Non-routine screening:

 Regular employees who would otherwise be exempt from routine annual screening may be required to undergo non-routine screening, if there is epidemiologic evidence that such employees may have become infected or infectious. Epidemiologic evidence includes:

 a. Identification of employees as close contacts of tuberculosis cases;

 b. Occurrence of tuberculosis in the school environment;

 c. Observation of signs or symptoms in employees suggestive of tuberculosis.

**V. ADDITIONAL INFORMATION AND FORMS**

 Questions regarding the amended law and regulation may be addressed to personnel of the county health departments or the district offices of the Department of Health and Environmental Control. Questions which cannot be resolved at the local level may be referred to the Tuberculosis Control Division, Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201.

 Examination and certification may be obtained by school employees from private physicians or from county health departments. County health departments establish schedules for services. Employees should call for an appointment and arrange to have the necessary screening and certification done before the start of a new school year. Certification forms (DHEC 1420) are available, upon request, from the Department of Health and Environmental Control.

 A flow chart representation of the guidelines for the screening/evaluation of school employees for tuberculosis follows:

[​](http://www.westlaw.com/Link/Document/Blob/I6D8B94E760CB11D6978200C04F42DFD.png?targetType=laws&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentImage&contextData=(sc.History*oc.UserEnteredCitation))

**VI. EFFECT ON THE “REVISED REGULATION.”**

 This emergency regulation supersedes any and all provisions of the revised Regulation 61-22 that took effect as law by publication as Document No. 4609 in the S.C. State Register, Volume 40, Issue 6, on June 24, 2016.