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**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-29-150 through 44-29-170

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

**Synopsis:**

The Department has conducted a review of Regulation 61-22 pertaining to the evaluation and screening for tuberculosis for those working in schools and child care centers. As a result of the review, the Department has substantially amended R.61-22 in order to simplify and clarify the tuberculosis screening and evaluation requirements for schools and child care centers and to significantly reduce the financial and human resources burden on schools and child care centers created in prior revisions to R. 61-22, all while affording children greater protection against exposure to tuberculosis in these settings. The amendments herein include the Department’s effort to incorporate current tuberculosis evaluation and preventive treatment guidelines, update the screening and evaluation requirements for those working and volunteering in schools and child care centers, clarify language relating to the issuance of evaluation certificates, and provide for consistency with applicable state and federal laws. The title of the Regulation will also be revised.

A Notice of Drafting was published in the *State Register* on August 26, 2016.

See Statements of Need and Reasonableness and Rationale herein for these amendments.

Section-by-Section Discussion of Amendments

The title of R.61-22 has been changed to reflect the scope of the guidelines, which are not limited to employees or to schools, but include certain non-employees and those who work in child care centers.

Section I. Purpose and Scope: Changes were made in this section to more accurately reflect the scope of the guidelines, which are not limited to employees of schools, but cover others who work in school environments and in child care centers. Changes were also made to clarify the purpose of the guidelines and to improve the section’s readability.

Section II. Definitions: Wholesale changes were made to the Definitions section in order to bring clarity to the guidelines, remove unnecessary language, and improve accuracy and readability. Definitions were added to include the terms “Approved TB Screening Tests,” “Department,” “DHEC 1420,” “disposition,” “employee,” “latent TB infection,” “preventive treatment,” and “tuberculosis” or “TB.” Definitions of the following terms were deleted as being unnecessary, including “adequate treatment,” “blood assay for mycobacterium tuberculosis (BAMT),” “legally authorized healthcare provider,” “new employee,” “non-reactor,” “non-routine testing,” “regular employee,” “school employees,” “treatment for tuberculosis infection (TTBI),” “tuberculin/BAMT positive reactor,” “tuberculin skin test (TST),” “tuberculosis infection,” and “two-step tuberculin skin test.” The definition of “tuberculosis disease” or “TB disease” was revised.

Section III. Guidelines for Screening and Evaluation, Subsection A: This section was renamed and significantly revised to simplify tuberculosis screening and evaluation requirements and to improve clarity. The revisions eliminated the ninety (90) day window for pre-employment testing and the two-step tuberculin skin tests as those requirements proved burdensome and confusing to school districts and others and are not necessary under best practices for tuberculosis screening. Instead, TB testing is specified as a prerequisite to employment and a condition for continued employment, with schools and child care centers given greater discretion to determine how far in advance of working with students the testing and documentation must be accomplished. These revisions reduce the burden on schools and child care centers, give them greater flexibility, while still ensuring that all persons are evaluated for tuberculosis before working in a school or child care center.

Section III. Guidelines for Screening and Evaluation, Subsection B. Disposition Following Evaluation: This section was significantly revised to simplify the actions to be taken by schools and child care centers following tuberculosis evaluation. The revisions eliminate the requirement for annual screening of all employees, provide for re-evaluation only upon a gap in employment, and make clear that the guidelines establish minimum requirements, with schools and child care centers free to implement stricter requirements to meet their individual needs.

Section III. Guidelines for Screening and Evaluation, Subsection C. Documentation of results of screening and evaluation. This section was significantly revised to simplify the documentation needed to verify tuberculosis evaluation. Language was added to clarify documentation requirements for those who transfer from one location to another and for those who work in more than one location. Additional language was added to give schools and child care centers the discretion to maintain documentation at individual locations or at centralized locations, such as district offices, and to clarify that outside vendors that provide staff to schools are responsible for maintaining proper documentation of their employees.

Section III. Guidelines for Screening and Evaluation, Subsection D. Non-routine screening. Minor revisions to this section were made to reflect the scope of the guidelines. A subsection pertaining to education was added to recommend, but not require, annual public health instruction so that educators and those working in school and child care environments may gain additional knowledge regarding public health issues including, but not limited to, recognizing the signs and symptoms of tuberculosis.

Section IV. Additional Information and Forms. Only minor changes were made to improve clarity.

Appendix. Interpretation of the Tuberculin Skin Test (TST). The appendix was deleted in its entirety.

**Instructions:**

Due to numerous revisions throughout, replace 61-22 in its entirety with this amendment.

**Text:**

**61-22. The Evaluation of Staff of Schools and Child Care Centers for Tuberculosis.**

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

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I. PURPOSE AND SCOPE.

The General Assembly, in sections 44‑29‑150 through 44‑29‑170 of the 1976 South Carolina Code of Laws, charged the South Carolina Board of Health and Environmental Control with approving guidelines for the evaluation for tuberculosis of persons working in a public or private school, kindergarten, nursery or day care center for infants and children (Registered family child care homes are exempt from the requirements of these guidelines). As more fully set forth below, as a prerequisite to employment and as a condition of continued employment, all persons to whom these guidelines apply shall be evaluated for tuberculosis and shall provide certification on a form designated by the Department that the person does not have tuberculosis in an active stage. Re-evaluation will not be required for employment in subsequent consecutive years unless otherwise indicated.

These guidelines modernize the approach to screening for tuberculosis and take into account contemporary scientific and epidemiologic principles. Under these guidelines, most school employees will need to be evaluated for tuberculosis only one time and will not be required to be screened annually absent certain factors. Non-routine screening is based on epidemiologic and clinical information and is combined with an underlying policy concerning preventive treatment of tuberculosis disease and infection. These guidelines will afford children greater protection against exposure to tuberculosis in the school, kindergarten, nursery and day care center environments.

II. DEFINITIONS.

For the purpose of these guidelines, the following definitions and clarifications shall apply:

A. “Approved TB Screening Tests” means tests for the detection of TB disease and/or latent TB infection approved by the United States Food and Drug Administration and recommended by the Centers for Disease Control and Prevention.

B. “Department” means the South Carolina Department of Health and Environmental Control.

C. “DHEC 1420” means the form designated by the Department for documenting and certifying tuberculosis evaluation, including results of Approved TB Screening Tests, disposition and preventive measures.

D. “Disposition” means the plan for continuing healthcare of a person following evaluation for tuberculosis.

E. “Employee” means any person working in a public or private school, kindergarten, nursery or day care center for infants and children, whether a new hire or currently employed, whether a direct employee or an independent contractor, and whether full-time, part-time, temporary or in any other capacity. Examples of employees to whom these guidelines apply include, but are not limited to, teachers, substitute teachers, teacher aides, student teachers, administrators, school psychologists, custodians, bus drivers, coaches, trainers, guidance counselors, school nurses and cafeteria workers, among others.

F. “Latent TB infection” means a person has become infected with the bacterium that causes TB, but does not have TB in an active stage. A person with latent TB infection does not feel sick, does not have symptoms and cannot spread TB bacteria to others.

G. “Preventive treatment” means treatment to prevent latent TB infection in an individual from developing into TB disease.

H. “Tuberculosis” or “TB” means generally a bacterial infection caused by a bacterium called *Mycobacterium tuberculosis*. The bacteria usually attack the lungs, but TB bacteria can attack any part of the body such as the kidneys, spine, and brain. TB bacteria can live in the body without making you sick. This is called “latent TB infection.” For most people who breathe in TB bacteria and become infected, the body is able to fight the bacteria to stop them from growing. For others, TB bacteria become active in the body and multiply. In those instances, people will go from having latent TB infection to being sick with “TB disease” or “TB in an active stage.”

I. “TB disease” or “TB in an active stage” means a person has become infected with the bacterium that causes TB and the bacterium has become active and has multiplied. People with TB disease usually have symptoms and may spread TB bacteria to others.

III. GUIDELINES FOR SCREENING AND EVALUATION.

A. Evaluation for Tuberculosis:

1. As a prerequisite to employment, and as a condition for continued employment, all employees shall be evaluated for tuberculosis by a licensed healthcare provider and shall provide written certification from a licensed physician that the person does not have TB disease.

2. Tuberculosis evaluations must be completed no more than one year prior to employment.

3. Tuberculosis evaluations shall be conducted utilizing Approved TB Screening Tests.

4. Certification of tuberculosis evaluation, including disposition and preventive treatment, shall be documented on DHEC 1420 and retained in the files of the school, kindergarten, nursery or day care center for infants and children where the person works.

B. Disposition Following Evaluation:

1. Any employee with a negative Approved TB Screening Test shall require no further routine screening except as otherwise provided in section III(B)(3) below.

2. Any employee with a positive Approved TB Screening Test or with a history of latent TB infection or TB disease shall be further evaluated by a licensed healthcare provider.

a. If the evaluation reveals no TB disease, then no exclusion and no further routine screening shall be required except as otherwise provided in section III(B)(3) below.

b. If the evaluation reveals TB disease, then the individual shall be excluded from working in any school, kindergarten, nursery or day care center for infants and children until a licensed physician certifies that the individual no longer has TB in an active stage

3. An employee in a public or private school, kindergarten, nursery or day care center for infants and children that has been evaluated for tuberculosis as required above will require no further routine screening so long as the person’s employment in one or more of these work settings is continuous during consecutive years. Continuous employment in consecutive years includes, but may not be limited to, a change in employment directly from one of these work settings to another such as moving from a public school directly to a private school, moving from one school district directly to another, or moving from a day care center directly to a school. Short-term breaks in employment, such as maternity or paternity leave or traditional school year breaks, e.g., summer or winter break, shall not necessitate a new TB evaluation.

4. Nothing in these guidelines shall prevent a public or private school, kindergarten, nursery or day care center for infants and children from requiring additional tuberculosis evaluations or screenings of its employees and volunteers.

C. Documentation:

1. Every school, kindergarten, nursery or day care center for infants and children shall maintain a completed DHEC 1420 for each employee and shall make such records available for review by representatives of the Department upon request. Records may be maintained in an individual facility or in a centralized office, such as in a school district office..

2. For persons who are not employed directly by a school, kindergarten, nursery or day care center, but who work in these settings, the person’s employer shall maintain a completed DHEC 1420 and shall make such records available for review upon request by representatives of the Department as well as representatives of any school, kindergarten, nursery or day care center in which the person works.

3. If an employee moves or transfers directly to another public or private school, kindergarten, nursery or day care center for infants and children such that employment in any of these work settings remains uninterrupted, no additional routine screening or evaluation for tuberculosis shall be required beyond that which is described above, provided the employee has a completed DHEC 1420, which should be transferred to the new place of employment.

4. If an employee works in more than one school, kindergarten, nursery or day care center for infants and children, each facility shall maintain a separate copy of the individual’s completed DHEC 1420 unless kept in a centralized office governing all places of employment.

5. Any employee who does not have proper documentation on file that he or she is free of TB disease shall be excluded from working in any school, kindergarten, nursery or day care center for infants and children until written certification by a licensed physician is received and documented on DHEC 1420 declaring that the individual does not have tuberculosis in an active stage.

D. Non‑routine Screening and Recommended Education:

1. An employee who would otherwise be exempt from routine annual screening for tuberculosis may be required to undergo non‑routine screening if there is epidemiologic or clinical evidence that such employee may have been exposed to TB bacteria or become infected with TB or may have moved from having latent TB infection to TB disease. Epidemiologic and clinical evidence includes, but may not be limited to:

a. Identification of an employee as a close contact of a person with TB disease;

b. Occurrence of tuberculosis in any public or private school, kindergarten, nursery or day care center for infants and children; or

c. Observation of signs or symptoms in an employee suggestive of tuberculosis.

2. The Department recommends that regular employees and volunteers of public or private schools, kindergartens, nurseries or day care centers for infants and children participate in a Public Health Education element annually. Recommended Public Health Education materials will be made available by the Department and will include disease prevention, symptoms and screening information for communicable diseases common to public or private school, kindergarten, nursery or day care center environments.

IV. ADDITIONAL INFORMATION AND FORMS.

A. Questions regarding these guidelines may be addressed to personnel of the county health departments or the regional 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 Program, Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201.

B. Employees may obtain tuberculosis evaluations and certifications from private physicians. Certification forms (DHEC 1420) are available, upon request, from the Department.

**Fiscal Impact Statement:**

There are no anticipated additional costs to the state or its political subdivisions. Staff of schools and child care settings are currently required by S.C. Code Section 44-29-160 to be evaluated for tuberculosis as a condition of employment. In addition, prior R.61-22 requires two tuberculin skin tests for all school and child care center staff as well as annual screening. The amendments to R.61-22, which lessen those requirements while continuing to afford protection against tuberculosis in these settings consistent with best practices, should lower the financial and human resources burdens on schools and child care centers.

**Statement of Need and Reasonableness:**

This Statement of Need and Reasonableness is based on an analysis of the factors listed in S.C. Code Sections 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF THE REGULATION: R.61-22, The Evaluation of School Employees for Tuberculosis.

PURPOSE OF THE REGULATION: The purpose of these revisions is to update R.61-22 and incorporate recommended changes identified by staff during internal review, including integrating current tuberculosis evaluation and preventive treatment guidelines, updating the screening/evaluation requirements for schools and child care centers, clarifying language relating to issuing, completion and retention of certificates of tuberculosis evaluation and language relating to requirements for new hires, and providing for consistency with applicable state and federal laws. These amendments also incorporate stylistic changes, which include corrections for clarity, readability, grammar, punctuation and overall improvement of the text. The changes also align the Department with advancements and best practices in tuberculosis evaluation.

LEGAL AUTHORITY FOR THE REGULATION: 1976 Code Sections 44-29-150, as amended.

PLAN FOR IMPLEMENTATION: Upon approval by the S.C. General Assembly and publication in the *State Register* as final, these revisions will take effect as law. In addition to publication in the *State Register*, the amended regulation will be available electronically on the Department’s website in the *DHEC Regulation Development Update*. Also, a copy of this regulation, to include these latest amendments, will be published in the Department’s *Laws and Regulations* section of its website under the Disease Control category and subsequently in the Code of Regulations in the S.C. Code of Laws. Printed copies will be available for a fee from the Department’s Freedom of Information Office.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION AND EXPECTED BENEFITS: The amendments to R.61-22 are needed to update and clarify the guidelines for tuberculosis screening and evaluation of employees in school and child care settings. The amendments are reasonable as they accomplish their intended purpose of identifying high-risk school employees and will afford children greater protection against exposure to tuberculosis in these settings.

DETERMINATION OF COSTS AND BENEFITS: There are no anticipated additional costs to the state or its political subdivisions. Staff of schools and child care settings are currently required by S.C. Code Section 44-29-160 to be evaluated for tuberculosis as a condition of employment. In addition, prior R.61-22 requires two tuberculin skin tests for all school and child care center staff as well as annual screening. The amendments to R.61-22, which lessen those requirements while continuing to afford protection against tuberculosis in these settings consistent with best practices, should lower the financial and human resources burdens on schools and child care centers.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: Implementation of the amendments herein will not compromise the protection of the environment or public health. The effect should be beneficial because the amendments ensure proper tuberculosis evaluation prior to initial hire, facilitate targeted testing of identified higher risk school employees and improve knowledge of tuberculosis disease, signs and symptoms, by staff of schools and child care centers.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There is no anticipated detrimental effect on the environment if the amendments are not implemented. Failure to amend the regulation could result in the lack of proper evaluation of employees for tuberculosis as well as an undue financial and human resources burden on schools and child care centers.

**Statement of Rationale**:

The Department has amended R.61-22, *The Evaluation of School Employees for Tuberculosis*, to incorporate current tuberculosis evaluation and preventive treatment guidelines, update the screening and evaluation requirements for school employees, clarify language relating to the issuance, completion and retention of evaluation certificates and language relating to requirements for new hires, and provide for consistency with applicable state and federal laws. The amendments herein are needed to update and clarify the guidelines for tuberculosis screening and evaluation of employees in school and child care settings in South Carolina.