

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

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2006 JUN 28 A 10:47

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DHHR - Bureau for Public Health TITLE NUMBER: 64

RULE TYPE: Legislative CITE AUTHORITY: _____

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: Immunization Criteria For New School Enterers

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 91

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 28, 2006 AT noon ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

John D. Law, WVDHHR

Ann Spaner - BPH

Diamond Bldg., Room 702
350 Capitol Street

Charleston, WV 25301

Phone: (304) 558-2971

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Martha Yeager Walker
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$3.00

The reason that there will be no financial effects from this proposed rule is that the Bureau for Public Health currently provides free, universal access to the vaccines which we receive from the CDC under the Vaccines For Children (VFC) program. This rule would add three additional vaccines to those already required by law. Any additional costs for the added vaccines would be minimal and therefore it is not listed in the fiscal note detail. Similarly, the DHHR Certificate of Immunization, which will be required for school entry under this legislative rule, is also currently available through local health departments at no cost to parents or guardians.

Date

Agency

Authorized Representative

6/28/06

Department of Health and Human Resources

Martha Yeager Walker
Martha Yeager Walker
Secretary

**Department of Health and Human Resources
Bureau for Public Health
Legislative Rule
Title 64, Series 91**

IMMUNIZATION CRITERIA FOR NEW SCHOOL ENTERERS

BRIEF SUMMARY OF PROPOSED RULE

This rule is being proposed to clearly spell out the compulsory immunizations and the timetable for administration of vaccines for children to be properly immunized prior to school entry in West Virginia.

STATEMENT OF CIRCUMSTANCES

The law requiring compulsory immunization for school children prior to their attendance at school has been a part of the law in West Virginia for more than 100 years. Recently, science and technology have given us additional vaccines to prevent childhood diseases and conditions that were not preventable previously. In compliance with recent statutory enactments and in keeping with the Commissioner of Public Health's duty to protect the public health, this rule adds three diseases to the list of those already required for new school enterers. They are: Mumps, Chickenpox and Hepatitis B.

Additionally, the rule looks to nationally recognized experts for directions on the proper timing and schedule for administering vaccines to children to achieve the greatest positive impact on their health. Those experts include the Advisory Committee on Immunization Practices (ACIP) of the US Public Health Services, the American Academy of Pediatrics (AAP) and the American Academy of Family Physicians (AAFP). The rule implements the recommendations of those experts regarding the number of doses and the best times to give vaccines to children.

In working with the Department of Education and others with a vital interest in children's health, we have drafted this rule to afford the maximum protection to the greatest number of school children, while still allowing for those children who have a medical contraindication to be exempt from one or more vaccines.

This rule also requires the DHHR Certificate of Immunization to be presented in order to legally enter a West Virginia school for the first time. The Certificate of Immunization requires a physician's signature and ensures that children's immunization records will be assessed for completeness by a medical professional instead of by school personnel who may not be qualified to determine compliance with the immunization requirements for school entry.

FILED

TITLE 64

2006 JUN 28 A 10:47

LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 91

IMMUNIZATION CRITERIA FOR NEW SCHOOL ENTERERS

§64-91-1. General.

1.1. Scope - This rule establishes minimum immunization criteria for enrollment as a new school enterer in a West Virginia School.

1.2. Authority - WV Code §§16-1-4, 16-1-6, 16-3-4, 16-3-5 and 5-16-9.

1.3. Filing Date - June , 2006

1.4. Effective Date -

1.5 Applicability - This rule applies to all Kindergarten enterers and to students transferring into a West Virginia school from out of state.

1.6. Purpose - The purpose of this rule is to clearly define the minimum requirements for immunizations for new school enterers.

1.7. Standards - The standards of medical practice used in this rule incorporate the most current recommendation issued by the U.S. Public Health Services, Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP) and the American Academy of Family Physicians (AAFP).

§64-91-2. Definitions.

2.1. Bureau - means the Bureau for Public Health in the Department of Health and Human Resources.

2.2. Child - means any person between the ages of birth and eighteen years.

2.3. Commissioner - means the commissioner of the Bureau for Public Health as that term is defined in WV Code §16-1-2.

2.4. Contraindication - means a medical condition which renders an immunization improper or undesirable for a particular individual.

2.5. Delinquent - means lacking immunization(s) which are required to have been completed prior to school entry.

2.6. Health practitioner - means any person authorized by law to prescribe and administer immunizations.

2.7. Local Health Officer - means the individual physician with a current West Virginia license to practice medicine who supervises and directs the activities of the local health department services, staff and

facilities and is appointed by the local board of health with approval from the commissioner.

2.8. Medical exemption - means an exemption from any of the requirements for compulsory immunization due to a contraindication to any or all of the vaccines required by law and this rule.

§64-91-3. Basic Immunization Schedule.

3.1. The optimum age for a child to receive vaccination for the required immunizations is as follows:

3.1.a. Diphtheria at 2 - 4 months;

3.1.b. Pertussis at 2 - 4 months;

3.1.c. Tetanus at 2 - 4 months;

3.1.d. Poliomyelitis at 2 - 4 months;

3.1.e. Rubeola (measles) at 12 - 15 months;

3.1.f. Rubella at 12 - 15 months;

3.1.g. Mumps at 12 - 15 months;

3.1.h. Hepatitis B at 0 - 2 months; and

3.1.i. Varicella (chickenpox) at 12 - 15 months.

3.2. All children entering a West

Virginia school for the first time, anytime between Kindergarten through 12th grade (hereinafter K-12), shall present documentation of immunization against the following diseases:

3.2.a. Diphtheria

3.2.b. Pertussis

3.2.c. Tetanus

3.2.d. Poliomyelitis

3.2.e. Rubeola (measles)

3.2.f. Rubella

3.2.g. Mumps

3.2.h. Hepatitis B

3.2.i. Varicella (chickenpox)

3.3. Dosage and interval schedule for Diphtheria, Pertussis and Tetanus vaccine.

3.3.a. Before being admitted to school in Kindergarten or first grade each child shall show proof that he or she has received a minimum of three doses of diphtheria, tetanus, acellular pertussis (DTaP) vaccine with the last dose being a booster which shall have been received on or after the child's 4th birthday and prior to school entry.

3.3.b. The interval between the third and fourth or final dose shall be at least six months.

3.3.c. Children seven years of age and older may receive tetanus, diphtheria (Td) vaccine in lieu of DTaP

vaccine.

3.4. Dosage and interval schedule for Polio vaccine.

3.4.a. Before being admitted to school in Kindergarten or first grade each child shall show proof that he or she has received a minimum of three doses of trivalent polio vaccine (PV) with the last dose being a booster which shall have been received on or after the child's 4th birthday and prior to school entry.

3.5. Children entering school at any grade level, K-12, shall show proof that they have received two doses of rubeola (measles) vaccine, the first dose on or after the 1st birthday and the second dose no less than one month after the first dose. Alternately, immunity may be proven through laboratory testing.

3.6. Children entering school at any grade level, K-12, shall show proof that they have received at least two doses of rubella vaccine on or after the 1st birthday. Alternately, immunity may be proven through laboratory testing.

3.7. Children entering school at any grade level, K-12, shall show proof that they have received at least two doses of mumps vaccine on or after the 1st birthday. Alternately, immunity may be proven through laboratory testing.

3.8. Children entering school at any grade level, K-12 shall show proof that they have received at least three doses of hepatitis B vaccine with at least one dose having been given on or after 6 months of age. The second and third doses shall be separated by at least 2 months. Alternately,

immunity may be proven through laboratory testing.

3.9. Children entering school at any grade level, K-12, shall show proof that they have received at least one dose of chickenpox vaccine, on or after the 1st birthday. Alternately, immunity may be proven through the written or verbal statement of a parent or legal guardian.

§64-91-4. Compliance with the Law.

4.1. A child shall be considered to be in compliance with the law requiring compulsory immunizations prior to school entry when they have a complete Certificate of Immunization, as required in section 5.1. of this rule.

4.2. If a child has been determined to be medically exempt from receiving one or more vaccinations, the Certificate of Immunization shall note specifically which vaccine the child is exempt from and why. All requests for medical exemption from vaccine requirements shall be reviewed and approved in writing by the Commissioner.

4.3. Out of state transfer students shall provide documentary evidence of their immunizations within 7 months of school entry.

4.4. If a child is delinquent for a scheduled vaccination required by this rule, he or she will be considered to be out of compliance with the law until the appropriate vaccine(s) are received and the records amended.

§64-91-5. Proof of Immunity.

5.1. The best proof of a child having

received all of the vaccinations required for school entry shall be a completed copy of the Certificate of Immunization. The Certificate of Immunization is a form developed and issued by the West Virginia Department of Health and Human Resources, Bureau for Public Health, Immunization Program. The form is available electronically through the West Virginia Statewide Immunization Information System (WVSIIS) and also in writing from the office at:

ATTN: WVSIIS
Bureau for Public Health
Immunization Program
350 Capitol Street, Room 125
Charleston, WV 25301

5.2. Proof of immunity may also consist of documentary evidence that a child has received the vaccinations required by this rule from a qualified physician or health care provider. Such evidence shall be transferred to the Certificate of Immunization by the child's primary care provider.

5.3. The documentary evidence of immunizations shall contain the day, month and year of each vaccine received by the child or sufficient information of the time interval between doses to enable verification that the minimum intervals have been observed.

5.4. Proof of prior measles disease requires a document signed by a physician indicating, at a minimum, the name of the patient and the date of the illness or laboratory evidence of immunity.

5.5. The verbal or written statement

of the parent or legal guardian of a child shall suffice to prove that a child has had chickenpox and is considered to be proof of immunity.

§64-91-6- Booster shots.

Only those booster immunizations recommended in section 3 of this rule are required.

§64-91-7. Determination of Medical Exemption from Vaccination.

The Commissioner shall have the authority to determine whether or not a medical exemption shall be granted and whether the grounds offered for such a decision are sufficient to justify the medical exemption.

§64-91-8. Compulsory Immunization Requirements.

8.1. All children entering school for the first time in West Virginia shall receive the following immunizations:

8.1.a. DTP/DTaP: Before admission to Kindergarten, three doses are required, including one dose on or after the 4th birthday;

8.1.b. POLIO (OPV/IPV): Before admission to kindergarten, three doses are required, including one dose on or after the 4th birthday;

8.1.c. MEASLES: Before admission to kindergarten, two doses;

8.1.d. MUMPS: Before admission to kindergarten, two doses;

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8.1.e. RUBELLA: Before admission to kindergarten, two doses;

8.1.f. HEPATITIS B: Before admission to kindergarten, three doses; and

8.1.g. CHICKENPOX: Before admission to kindergarten, one dose.

8.2. All students transferring into a West Virginia school from out-of-state shall have the following immunizations:

8.2.a. DTP/DTaP: Before admission, three doses, including one dose on or after the 4th birthday;

8.2.b. POLIO (OPV/IPV): Before admission, three doses, including one dose on or after the 4th birthday;

8.2.c. MEASLES: Before admission, two doses;

8.2.d. MUMPS: Before admission, two doses;

8.2.e. RUBELLA: Before admission, two doses;

8.2.f. HEPATITIS B: Before admission, three doses; and

8.2.g. CHICKENPOX: Before admission, one dose.

§64-91-9. Flu Vaccine Recommended

An annual influenza vaccination is recommended for all children with any chronic or other medical conditions which may result in a child being at higher risk for severe influenza or complications of influenza.

§64-91-10. Medical Exemptions.

10.1. The provisions of this rule may not apply if a child has a valid medical contraindication to a particular vaccine. To demonstrate a medical contraindication the child's parent or guardian shall present a written request for an exemption from a reputable physician who has treated or examined the child stating that the child has a medical condition which makes it impossible or improper or other sufficient reason why an immunization has not been done for a particular vaccine for the child.

10.2. The Commissioner shall review all requests for exemption from immunization required by this rule and make a determination, based on the medical science and current recommendations from the CDC, ACIP, AAP and AAFP.

§64-91-11. Administrative Due Process.

Any person adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in the manner prescribed in the bureau procedural rule, Rules for Contested Case Hearings and Declaratory Rulings, 64CSR1.