

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

Form #3

Do Not Mark In This Box

FILED

2006 JUL 28 P 5:13

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

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

CITE AUTHORITY: Legislative

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 91

TITLE OF RULE BEING PROPOSED: Immunization Criteria for New School Enterers

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Martha Yeager Walker  
Authorized Signature

**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.



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

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: July 28, 2006

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WVDHHR / BPH  
350 Capitol Street, Room 702  
Charleston, WV 25301-3712  
Phone: (304) 558-2971

LEGISLATIVE RULE TITLE: 64CSR91, Immunization Criteria for New School Enters

1. Authorizing statute(s) citation WV Code §§16-1-4, 16-1-6, 16-3-4, 16-3-5 and 5-16-9

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
June 28, 2006

b. What other notice, including advertising, did you give of the hearing?  
\_\_\_\_\_  
\_\_\_\_\_

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
July 28, 2006

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached     X     No comments received \_\_\_\_\_

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

following public comment period, July 28, 2006

- f. Name, title, address and **phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

John D. Law, WVDHHR

Ann Spaner BPH

350 Capitol Street, Room 702

Charleston, WV 25301-3712

(304) 558-2971

fax (304) 558-1035

annspaner@wvdhhr.org

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Loretta Haddy, Ph.D., State Epidemiologist, or

Jeff Neccuzi, Immunization Program Director

350 Capitol Street, Room 125

Charleston, WV 25301-3715

(304) 558-2188

fax (304) 558-6335

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

---

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

---

d. Attach findings and determinations and reasons:

Attached 

---

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

Supporting the rule

**1. Karen Dawson, RN, BSN**  
**July 7, 2006**

John D. Law, WVDHHR  
Ann Spaner, BPH  
350 Capitol Street, Room 702  
Charleston, WV 25301

Dear Sir and Madam:

Today we received the proposed rule, Immunization Criteria for New School Enterers and the Notice of a Comment Period on a Proposed Rule. The Morgan County Health Department favors such a rule, and according to our Health Officer, Dr. Donald Straus, who says, "It's about time".

**DHHR Response:** Thank you.

**2. Heather Wood, School Nurse, RN, CFNP**  
**July 11, 2006**

John Law, WVDHHR  
Ann Spanner, BPH  
Diamond Building  
Room 702  
305 Capital Street  
Charleston, WV 25301

Mr. Law and Ms. Spanner;

This letter is for comment regarding Legislative Rule – Minimum Criteria for School Entry. I would like to applaud the efforts to keep West Virginia school children healthy by requiring additional immunizations. I work at Huntington High School and we update student's immunizations throughout the school year in our school based clinic. I had a few comments regarding some things in the proposal that I found a bit confusing.

The first comment that I had was regarding section 3.1. This section states that the optimum age for vaccines but actually only addresses that optimum age to start vaccines.

Section 3.8 discusses Hepatitis B vaccine. It states that the child should have one vaccine on or after 6 months of age. That is confusing since children start the vaccine before 6 months of age, some even a day or so after birth. Also, it specifies that the 2<sup>nd</sup> and 3<sup>rd</sup> dose must be separated by 2 months. Not only are the 2<sup>nd</sup> and 3<sup>rd</sup> doses to be separated by 8 weeks, but the 1<sup>st</sup> and 3<sup>rd</sup> dose must be separated by 16 weeks.

Section 4.3 states that out of state transfers have 7 months to provide documentation on immunizations. State law presently states that out of state transfers must provide documentation of immunizations prior to admittance to a West Virginia school.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Supporting the rule**

Sections 8.1c and 8.1d address measles and rubella vaccines. The first dose of these vaccines must be given on or after the 1<sup>st</sup> birthday.

Thank you for reading my comments. If you should need to contact me, my work phone is 528-6447. My e-mail address is [hwood@access.k12.wv.us](mailto:hwood@access.k12.wv.us).

**DHHR Response:** 3.1 states only the minimum age for *starting* these vaccine series' because with most vaccines there is no particular age at which can no longer be given, and more importantly, because it is not relevant to the issue of assuring K-12 immunization requirements.

3.8 Your questions regarding section 3.8 raise the point that if a practitioner abides by all minimum spacing periods for hepatitis B vaccine, that the series could be completed in less than 6 months, which is in contrast with the statement that the 3<sup>rd</sup> dose must be completed no sooner than 24 weeks (6 months of age). The reason for this is that the harmonized immunization schedule of the ACIP, AAP, and AAFP contains guidance stating that the 3<sup>rd</sup> dose shall not be given before 24 weeks (or 6 months of age). In summary, the hepatitis B series can be completed 16 weeks/4 months but not for an infant who began the series at birth or before 8 weeks (2 months) of age.

Section 4.3 states that out of state transfers have 7 months to provide documentation because if a child transfers from another state without any documentation of tetanus-containing vaccine (DTaP/DT/Td/Tdap), 7 months is necessary to receive three valid doses (a complete primary series) of tetanus-containing vaccines.

Section 8.1c and 8.1d correctly state that the first dose of measles and rubella vaccines must be given on or after the 1<sup>st</sup> birthday. This will never be a factor in the 7 month provisional enrollment period because children are obviously well past the 1<sup>st</sup> birthday when the provisional enrollment issue may be a factor in their enrollment requirements.

**3. Charles Babcock**  
**July 13, 2006**

I was reading this and had a few comments. Is 7 months a standard for proof of vaccination for a transferred student? I figure it should be shorter??

My only other comment is who pays if a child doesn't have these vaccines? What if the family cannot afford them (that's a lot of shots and it could get expensive)?

I did not know if this had been addressed.

**DHHR Response:** Seven months is the time granted for provisional enrollment because that is the amount of time needed to complete a primary series of three tetanus-containing (DTaP/DT/Td/Tdap) vaccinations.

All of the vaccinations made compulsory by this code are available free of charge at all local (county) health departments in West Virginia.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Supporting the rule**

**4. Sue Peros, RN, MS, School Nurse Director**  
**July 25, 2006**

I am assuming that e-mailed comments are acceptable since other legislative rules have allowed this form of written comment in the past. Here are the comments I had after reviewing the new rule:

4.3: Requires documented proof of immunizations "7 months" after an out of state child is admitted to school. While 8.2 states that "out of state entrants will have minimum immunizations before 'admission' to school. If we do not have documented proof, how can this be verified? These two sections appear to conflict if I am reading them correctly.

Also, one section in part 5 requires a 'certificate' from the health department of physician while later sections state 'documented records' for out of state students are acceptable. Does this mean that 'everyone' does not need to present the 'certificate of immunization'? One of the past issues with immunizations and school admission was that we were treating out of state and in state entrants differently under the law. These sections need to be worded exactly to prevent such problems in the future.

Past Department of Education Superintendent Interpretations have required us to admit students who have a least one antigen of each required immunization. My understanding is that this new rule will require the total immunization series before admission of the out of state students—please state that the documented proof of immunizations are required upon admission to school—we cannot wait 7 months for records and a child be sitting in the classroom during that time. One antigen, each, with 7 months to complete would be reasonable.

Thank you for allowing our comments.

**DHHR Response:** Section 4.3 and Section 8.2 do not conflict. Section 4.3 is correct as you cited it in your comment stating that a student may be enrolled and enter school for a provisional enrollment period not to exceed 7 months during which time minimum immunization requirements must be completed and documentation of such provided. Section 8.2 and the various sub-sections thereof merely state the minimum requirements which must be documented at the end of the 7 month provisional enrollment period.

The inconsistency in language you point toward regarding the certificate of immunization does, in fact, exist because as you state in other areas it is referred to as "documented records." WVDHHR will attempt to clarify this by editing to ensure consistent terminology.

This rule would, in fact, permit students to enter at any grade between K-12 with at least one dose of each required antigen with 7 months allowed to complete the remaining required doses.

**COMMENTS AND RESPONSES**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

**Supporting the rule**

- 5. Dr. Kerry Gateley, M.D., MPH, WIN Co-Chair  
Andrea Gess, WIN Co-Chair  
Brenda Isaac, RN, WIN Advocacy Committee, Co-Chair  
David Bowyer, R.Ph., WIN Advocacy Committee, Co-Chair  
July 21, 2006**

Mr. John Law, Director of Communications  
WV Dept. of Health & Human Resources  
350 Capitol Street; Room 702  
Charleston, WV 25301

**RE: Rule Title 64; Series 91; "Immunization Criteria for New School Enters"**

Dear Mr. Law:

Please accept this letter in response to the proposed Rule Title 64, Series 91, titled "Immunization Criteria for New School Enterers" from the West Virginia Immunization Network (WIN). WIN's purpose is to foster comprehensive and sustained programs that will protect West Virginia's residents against vaccine preventable diseases throughout their lifespan. WIN represents over 50 health care organizations and individuals working to improve the health of West Virginia. We are a dynamic group that works to ensure a future quality of life for all West Virginians by reducing the devastating impact of vaccine-preventable diseases on our residents.

We wish to go on record as supporting this rule as it incorporates the recommendations of the Advisory Committee on Immunization Practices, the American Academy of Pediatrics and the American Academy of Family Practice with regard their recommendations for immunizations for school-aged children. Each of these organizations represents valid health expertise and is well respected for their positions on health-related issues.

As of February 10, 2006, WIN adopted a position to strongly oppose any exemptions for immunizations other than for medical reasons. Non-medical exemptions result in a significant number of children going without immunizations needed to prevent diseases that can cause permanent injury and/or death. Thus, WIN strongly supports the position of proposed Rule 64-91-7 to allow only medical exemptions for immunizations.

WIN does have concern about allowing a parent or legal guardian to provide proof of prior disease states (chicken pox) as allowed in section 5.5. Many rashes can appear similar to chicken pox, thus parents may not be able to determine whether a child has or has not had chicken pox. We feel that all proof of prior diseases need to be verified in writing by a physician or other health care professional.

Finally, we express some confusion regarding Section 4.4. This section establishes that delinquent or missing shots would make a child to be considered "out of compliance with the law." We do not understand what exactly this language means. If a

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Supporting the rule**

child goes to school for seven months, as referenced in Section 4.3 and then we discover that the child has not been immunized properly, does it mean immediate school exclusion? Or does it require another action?

We value the opportunity to comment on this issue and applaud your commitment to protecting the health of school-aged children in our state. Please contact us at the following address if you have questions or if we can provide further assistance.

West Virginia Immunization Network (WIN)  
500 Westmoreland Office Center  
Dunbar, WV 25064  
Phone: (304) 766-1591

**DHHR Response:** Thank you for your comments. The concern you expressed regarding section 5.5 is noted but it is commonly accepted medical practice to accept parents' statements to document chickenpox infection. While it is true that a lay person such as a parent is apt to misdiagnose chickenpox if left to their own devices, the reality is that in most cases, the parent consults with physicians by telephone as the physician asks the parent *not* to bring the child into the office where the disease could easily be spread to other patients and parents in the waiting area. This is the rationale for the commonly accepted practice of accepting parents' statement as documentation of chickenpox.

Regarding section 4.4, the WVDHHR will make edits to sections 4.3, 4.4, and 4.5 to clarify all of these sections. What you should understand about section 4.4 is that if a child is admitted into school with a 7 month provisional enrollment, all documentation must be provided by the end of the 7 months or the child will be excluded from school until such time that all requirements can be documented as met.

**6. Brenda Isaac, RN, Lead School Nurse**  
**July 24, 2006**

John D. Law, WVDHHR  
Ann Spaner, BPH  
Diamond Bldg., Room 702  
350 Capitol St.  
Charleston, WV 25301

Dear Mr. Law and Ms. Spaner:

I am writing to comment on the proposed legislative rule amending **Immunization Criteria For New School Enterers**. As the Lead School Nurse for Kanawha County Schools, I deal almost daily with the immunization records of students entering the school system, and I supervise thirty one school nurse who also spend a great deal of their time dealing with student immunization records. We are very pleased that this rule will bring West Virginia up to the immunization standards recommended by the recognized experts in the field, such as the Advisory Committee on Immunization Practices, the American Academy of Pediatrics and the American Academy of Family

## **COMMENTS AND RESPONSES**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

**Supporting the rule**

Physicians. This update is long overdue. My comments on specific sections are included below.

**§64-91-4.2** requires all medical exemptions from vaccine requirements to be reviewed and approved in writing from the Commissioner. This gives statewide consistency to the rulings on exemptions and will take some of the burden off individual school systems and health departments.

**§64-91-4.3** gives out of state transfer students seven months to provide documentary evidence of their immunizations. This is totally impractical given the nine month school year. Many transfer students don't even stay at the same school for that long a period of time. With faxes and e-mail, a maximum of 90 days or 3 months allows more than enough time for immunization records to arrive and does a better job of protecting the other students. The seven months would all too often go over into a new school year with new teachers, often even new principals and new school nurses running the risk of many students without records falling through the cracks.

**§64-91-5 Proof of Immunity.** While the concept of the Certificate reduces the work load of school nurses and school office staff, until the WVSIS is much more user friendly and is used by at least 80% of the providers in West Virginia, this is a huge and unmanageable burden for rural health departments, health care providers and the parents of the students who are attempting to enter West Virginia's public schools. It will, in some instances, delay a student's ability to enter school. In areas with few providers and health departments with restricted working hours, students with all of their required immunizations may be held out of school for days or even weeks while waiting for someone in authority to transcribe their records onto the certificate. Private providers may also charge the parents a substantial fee for doing this. The requirement of the Certificate should be held until we have a much more efficient computer network of immunizations statewide and possibly even nationally.

**§64-91-5.5** I don't understand the inconsistency of waiving the requirement of the chicken pox vaccine on the word of the parent or guardian that the child has had the chicken pox when this is not allowed for any of the other communicable diseases covered in this rule. Many parents self diagnose chicken pox and are often incorrect. They may assume a child has had the disease when in reality he or she has not. At a minimum this should require the written documentation of a health care provider. That provider, as a professional, might make the determination to accept the word of the parent since the provider should have an ongoing relationship with the family.

**§64-91-10.1** The strong and clear wording in this section is excellent and very much needed to clarify medical exemptions.

**§64-91-10.2** Once again, the wording here is very clear and sets a definitive rule.

As a school nurse, I once again want to thank you for this updated rule that brings West Virginia's school entry immunizations up to national standards. Most of these changes will aid us in keeping the children of West Virginia healthy and safe. I do think that minor changes in this rule, as outlined above, will help to make it more practical and not as much of a burden on families, providers and school systems.

**DHHR Response:** Thank you. As for section 4.2 WVDHHR will also amend the proposed rule to add "the Commissioner...**or his/her designee**."

**COMMENTS AND RESPONSES**

**Supporting the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

WVDHHR feels the 7 month provisional enrollment period needs to remain as 7 months in duration because a complete primary series of tetanus-containing (DTaP/DT/Td/Tdap) vaccine cannot be completed in less than 7 months since the 2<sup>nd</sup> and 3<sup>rd</sup> dose of that series need to be separated by 6months. Also, the 7 months of the provisional enrollment period would carry over during the summer break. For example, if the 7 month period would end in July, then the child would have to have documentation of the required immunization on the very first school day of the next scholl year.

Regarding the WVDHHR Certificate of Immunization, it is deemed practical because a majority of private providers may now provide this certificate in addition to all local (county) health departments. Additionally, All of the local health departments provide the WVDHHR Certificate of Immunization free of charge.

Regarding chickenpox, it is commonly accepted medical practice to accept parental statements to such effect, as adequate documentation of chickenpox infection. While it is true that a lay person such as a parent is apt to misdiagnose chickenpox if left to their own devices, the reality is that in most cases, the parent consults with a physician by telephone because the physician asks the parent *not* to bring the child into the office where the disease could easily be spread to other patients and parents in the waiting area. This is the rationale for the commonly accepted practice of accepting parental statement as documentation of chickenpox.

11:54

WU DEPT OF ED SUPERINTENDENT OFC -\* 81035

Department of Education

July 28, 2006

Mr. John Laws Director of Communications

WV Dept. of Health & Human Resources

350 Capitol Street, Room 702

Charleston, WV 25301

Ann A. Spaner, Esquire

Bureau of Public Health

350 Capitol Street, Room 702

Charleston, WV 25301

RE: Rule Title 64, Series 91, "Immunization Criteria for New School enterers"

Dear Mr. Law and Ms. Spaner:

We submit the following comments to the proposed Legislative Rule, 64CSR91 on behalf of the West Virginia Department of Education, the institution that advises county school administrators and school nurses on educational issues arising from the laws, including West Virginia Code §16-3-4, 64CSR58

**64CSR91, Immunization Criteria for New School Enterers**

"Immunization Criteria for Transfer Students" and West Virginia Board of Education Policies 2424, "Communicable Disease Control Policy," 2510, "Assuring the Quality of Education," 2525, "West Virginia's Universal Access to Early Education System," and 4110, "Attendance."

First, WVDE would like clarification that 64CSR91 supercedes 64CSR58 "Immunization Criteria for Transfer Students." The latter legislative rule permits out-of- state students transferring to a West Virginia school to complete the necessary immunizations within 90 days of enrollment, as long as the students have at least one dose of the required vaccine.

Second, WVDE also needs clarification of §64-91-4.3, which states: "Out-of-state transfer students shall provide documentary evidence of their Immunizations within 7 months of school entry." When read in conjunction with §64-91-8.2, which lists the vaccines and their complete dosages that transferring students "shall" have before admission, it appears that there is no longer any period of provisional enrollment during which students may complete their immunizations as long as they have one dosage of required vaccine.

If the Bureau of Public Health and the West Virginia Department of Health and Human Services intended by § 64-91-4.2 to provide a period of provisional enrollment of seven months rather than 90 days, WVDE supports this goal. Since 90 days is not a sufficient amount of time in which to obtain the full complement of the required doses at the recommended intervals, WVDE fielded inquiries from school nurses on the not uncommon occurrence of a student being out of compliance with the legislative rule because of medical impossibility.

Third, WVDE urges the Bureau of Public Health and the West Virginia Department of Health and Human Services to extend the seven month period in which to complete the required vaccine dosages to all students, not just those who are out-of-state transfers<sup>1</sup> e.g., first-time students entering kindergarten. Since 2002, the State Superintendent of Schools has interpreted the law to permit all students attending school the first time to complete their vaccinations within 90 days from the date of admission. *Superintendent Interpretation, October 1, 2002.*

Fourth, the declaration contained in § 69-91-4.4 that students who are delinquent in receiving Immunizations will be considered to be "out of compliance with the law" is vague as to the consequences. This is an issue that has been the subject of both Board policy and Superintendent Interpretation. Policy 2510, "Assuring the Quality of Education" provides that "home/hospital services may also be provided *temporarily* at the direction of the county superintendent for students who have not met the immunization requirements of W. Va. Code § 16-3-4" [emphasis added]. Because this is only a temporary solution and a financial

**COMMENTS AND RESPONSES**

**Supporting the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

burden for the county school systems, the Superintendent has recommended various enforcement procedures, such as contacting the county health department, reporting to the Department of Health & Human Services for neglect; contacting the courts for guidance in enforcing the penalties set forth in West Virginia Code § 16-3-4. *Superintendent's Interpretation, July 28, 2005.*

Accordingly, WVDE suggests that § 69-91-4.4 contains the following language:

Children who are delinquent for a scheduled vaccination required by this rule<sup>7</sup> or have exceeded the 7 month provisional enrollment period, will be considered to be out of compliance with the law and may be required to be temporarily educated in another setting until the appropriate vaccine(s) are received and the records amended. The Bureau shall assist in pursuing legal remedies/penalties against parents who refuse to comply with the immunization requirements of this rule.

WVDE anticipates that the Bureau's expertise in explaining how serious the lack of compliance is will be necessary in the event action must be taken outside the educational setting.

If you have any questions, we will be pleased to discuss this important legislative rule with you further.

Sincerely,

West Virginia Department of Education

Heather, L. Deskins, General Counsel    Sherri D. Goodman, Staff Attorney

**DHHR Response:** Thank you for your comments. We have tried to make the changes you have suggested in this Agency Approved rule filing. We will make every effort to continue to work with you to improve this rule throughout the legislative process.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

**1. Lori Mitchell-Lee**  
**July 24, 2006**

John—

I don't know if you remember me, but I met you a few times when I worked for Karen Thornton over at the Diamond Building.

I am writing you today because of Legislative Rule Title 64, Series 91. This must be voted down as it is unconstitutional and utterly ridiculous.

I have sent letters to appropriate Senators and Delegates and would like the following submitted as well.

---

Re: Legislative Rule Title 64, Series 91 Dear Delegates and Senators: I am writing you on behalf of my entire family and circle of friends and peers to express our outrage regarding Legislative Rule Title 64, Series 91 which would add more forced vaccinations to the already ridiculous protocol. It is completely unconstitutional to force West Virginia residents to inject their children with aborted fetal tissue, neurotoxins which assault the brain, and live viruses/bacteria which attack the digestive system. Moreover, this rule bypasses the proper legislative process and is itself unconstitutional. Ultimately, we wish to have a religious exemption as forty-eight other states do. Forty-eight states, which have not lost herd immunity and have not experienced outbreaks in the UNVACCINATED population. I urge you to please use common sense and vote NO to this rule change. I would appreciate a phone call expressing your views on this rule at my home 304-372-7559. We will be watching this vote closely. Sincerely, Lori Mitchell-Lee Rt 1 Box 35 Gay, West Virginia [25244304-372-7559lorilee@leewebdesign.com](mailto:25244304-372-7559lorilee@leewebdesign.com)  
Thank you in advance. If you need a signed copy, please provide your fax number.

**DHHR Response:** DHHR believes strongly in individual's rights to hold views and maintain their convictions regardless of the degree to which those may be outside of the mainstream. Similarly, regardless of what is deemed to be universal acceptance and belief in the safety, effectiveness and protection offered by the vaccines being mandated for school entry, WVDHHR believes in parents/guardians right to refuse these vaccines for their children. Unfortunately for some, that leaves home-schooling as the only alternative.

**2. Kacie Rader**  
**July 25, 2006**

Legislative Rule Title 64, Series 91

This rule change is unconstitutional! WV Parents deserve the right to choose. Adding more vaccines that contain Aborted Fetal Tissue without allowing for a Religious Exemption is wrong. Furthermore, it is quite concerning that the Health Department is trying to bypass proper legislative process. This is an issue that has been brought up for the past four years in the legislature and it has not been allowed to be brought up for a vote the past two years. This past session it was held in committee because the chair of that committee would not put it on the table for a vote. Now, it is going to be decided on

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

by a committee only? THIS IS NOT HOW THE LEGISLATIVE PROCESS WAS MEANT TO WORK. The citizens of WV deserve for this issue to be brought before full legislature.

It is unconstitutional to force parents in WV to inject their children with Aborted Fetal Tissue and dangerous neurotoxins that assault the brain and live viruses and bacteria that assault the digestive system. West Virginians deserve to have a Religious Exemption as do 48 other states in this Great Nation. It is not right to add more vaccines (as this proposed rule change would) without also adding a Religious Exemption for those who morally oppose injecting their children with Aborted Fetal Tissue.

I ask you to PLEASE consider all of this and VOTE NO to this proposed rule change.

**DHHR Response:** As stated above in response to a similar comment, WVDHHR believes strongly in individual's rights to hold views and maintain their convictions regardless of the degree to which those may be outside of the mainstream. Similarly, regardless of what is deemed to be universal acceptance and belief in the safety, effectiveness and protection offered by the vaccines being mandated for school entry, WVDHHR believes in parents/guardians right to refuse these vaccines for their children. Unfortunately for some, that leaves home-schooling as the only alternative.

**3. S. Brent Peters**  
**July 25, 2006**

Legislative Rule Title 64, Series 91

I am submitting my comment within the allotted time period that is allowed for Legislative Rule Title 64, Series 91.

This proposed Rule Change IS RIDICULOUS! It is VERY ALARMING that the Health Department is trying to bypass proper legislative process. This is an issue that has been brought up for the past four years in the legislature and it has not been allowed to be brought up for a vote the past two years. This past session it was held in committee because the chair of that committee, Senator Prezioso, would not put it on the table for a vote. Now, it is slyly being put out to a committee only? THIS IS NOT HOW THE LEGISLATIVE PROCESS WAS MEANT TO WORK. The citizens of WV deserve for this issue to be brought before the full legislature.

It is unconstitutional to force parents in WV to inject their children with Aborted Fetal Tissue and dangerous neurotoxins that assault the brain and live viruses and bacteria that assault the digestive system. West Virginians deserve to have a Religious Exemption as do 48 other states in this Great Nation. It is not right to add more vaccines (as this proposed rule change would) without also adding a Religious and philosophical Exemption for those who morally oppose injecting their children with Aborted Fetal Tissue.

I ask you to PLEASE consider all of this and VOTE NO to this proposed rule change. I would be happy to speak to you about this issue. My home number is 304-485-1925.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

**DHHR Response:** WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law. The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as aborted fetal tissue and dangerous neurotoxins. Lastly, the WVDHHR does not mandate that parents have their children injected with any substance. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia.

**4. Chad McVaney**  
**July 25, 2006**

**Legislative Rule Title 64, Series 91**

I want to have this considered under the comment period for Legislative Rule Title 64, Series 91.

**PLEASE VOTE NO TO THIS PROPOSED RULE CHANGE!**

This rule change would add additional forced vaccinations that contain Aborted Fetal Tissue and does not allow for a Religious Exemption.

It is unconstitutional to force someone to do something that goes against their religious and moral beliefs. Injecting my child with aborted fetal tissue is against my beliefs.

We have been working for years trying to get an exemption in West Virginia and have even been promised by the State Department of Health that they would work with us in getting one, and last year we had a bill that was written by Senator Dr. Foster and was worked on by the Health Department. At the last minute Martha Walker from the Department of Health decided that they didn't want to support the bill that they helped to draft. NOW, the Department of Health is trying to DUPE the public by usurping the proper legislative process. That is not how the legislative process was designed to function. This issue needs to be brought in front of the ENTIRE LEGISLATURE, not decided on by a committee. In fact, last session Senator Prezioso would not let it out of committee because he talked to Martha Walker and she said they didn't like the bill, so now, it is going to be decided on by only a committee? THAT IS OUTRAGOUS!

I urge you to PLEASE VOTE NO to this unconstitutional rule.

I may be reached at 304-485-7322.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as aborted fetal tissue and dangerous neurotoxins. The WVDHHR does not mandate that parents have their children injected with any substance. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

**5. Arlene McDonald**  
**July 21, 2006**

LEGISLATIVE RULE, TITLE 64, SERIES 91

To Whom It May Concern:

I am writing in STRONG OPPOSITION of this proposed rule change. Legislative Rule Title 64, Series 91 would add more forced vaccines to the already unconstitutional protocol.

**THIS IS FORCED VACCINATION WITH NO CHOICE!** It is unconstitutional, and unacceptable. This is not an issue that should be handled by a rule change. This issue needs to be taken up by the full legislature.

The Health Department is trying to sneak more vaccinations in without allowing for a Religious and Philosophical Exemption. Forty-eight states have a Religious Exemption and or Philosophical Exemption with no harm to the "herd immunity" and have not experienced outbreaks in the unvaccinated population. In fact, less than 1% of people even choose to exempt. **HOWEVER**, they do have the **CHOICE**.

West Virginians deserve the right to religious freedom granted by the constitution of the United States.

I am asking you to please vote NO to this rule change.

**DHHR Response:** WVDHHR does not mandate that parents have their children injected with any substance. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia.

**6. Sarah Hildebrand**  
**July 24, 2006**

RE: Legislative Rule Title 64, Series 91  
**VOTE NO!**

Dear Delegates & Senators,

I am writing concerning "Legislative Rule Title 64, Series 91" which would add more forced vaccinations without a Religious Exemption. I do not agree with this proposed rule change! It is outrageous! It is unconstitutional to force WV citizens to vaccinate their children with chemicals that attack the brain, contain Aborted Fetal Tissue and not allow an Exemption as a choice.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

This is a serious and important issue that needs to be brought before the full Legislature, NOT just a committee.

Please, I urge you, VOTE NO to this rule change. I will be keeping an eye on this situation. Thank you in advance.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as aborted fetal tissue. The WVDHHR does not mandate that parents have their children injected with any substance. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia.

**7. Gary R. Zuckett**  
**July 26, 2006**

Comments on proposed rule 64-91

I am dismayed to see the DHHR trying to by-pass the legislative process by this rule adding 3 new mandatory immunizations to those already in place before new students are admitted to the WV public school system. This is a decision that should be made by our elected representatives, not bureaucratic fiat. In addition, adding new required immunizations in this manner may not be legal and if this rule is passed I wouldn't be surprised if it is challenged in court.

That being said, I would like to propose an amendment to this rule which is verbatim from SB 670 introduced in 2006 by Senator Foster (an MD). My proposed amendment is underlined and would also add a religious/conscientious exemption to this section of code as follows:

(2) *Nonmedical exemption* – A parent or guardian with a strongly held conscientious or religious belief that his or her minor child or ward should not be subject to a required immunization as provided in this section, may seek an exemption from any or all required vaccinations for his or her minor child entering the schools of this state for the first time as follows:

(A) The parent or guardian executes an affidavit on a form provided by the Commissioner of the Bureau for Public Health which includes a list of required immunizations to allow a parent or guardian to request an exemption for his or her child from any or all of the required immunizations. In the affidavit, the parent or guardian shall state the conscientious or religious belief and shall indicate the specific vaccines for which an exemption is being requested:

(B) The parent or guardian presents an affidavit affirming that he or she has completed and understood an educational course approved by the Commissioner of the Bureau for Public Health to include the nature of the risks of the failure to vaccinate a child and the benefits of each vaccine for which a child is to be exempt under the provisions of this section. The educational course may be provided by an instructor in a classroom, by

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

videotape, or by any means approved by the Commissioner of the Bureau for Public Health. A nominal charge may be imposed by the Commissioner of the Bureau for Public Health for the educational course, unless it is determined that the cost would be a hardship for a parent or guardian then there would be no fee charged for attendance:

West Virginia is only one of two states in the nation that does not allow for such exemptions. In these 48 other states there is no evidence that such exemptions affect "herd immunity" or pose a public health risk. On the contrary, parents should have oversight and final say about any and all medications that are introduced into their children. An exemption such as proposed above would give the small minority of such parents that discretion that parents in 48 other states enjoy.

Thank you for the opportunity to comment on this proposal.

**DHHR Response:** WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law. The WVDHHR does not prevent West Virginians from refusing any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia.

**8. Bob Grindley**  
**July 26, 2006**

John Law

RE: Interim Rules 64-91

LAST FALL AND WINTER YOU HAD EXTENSIVE DISCUSSION WITH DR. DAN FOSTER TO FORMULATE A BILL, SB439. WE THOUGHT YOU HAD A MEETING OF MINDS WHICH INCLUDED ALL THAT YOU WANTED ALONG WITH THE RELIGIOUS EXEMPTION. WHEN YOUR BOSS, MARTHA WALKER, REFUSED TO ENDORSE IT SENATOR PREZIOSO WOULD NOT RUN THE BILL.

NOW YOU ARE ATTEMPTING TO ADD VACCINES TO THE LIST WITHOUT THE RELIGIOUS EXEMPTION. THAT IS NOT RIGHT. PARENTS ARE ENTITLED TO A CHOICE.

PLEASE WITHDRAW THE REQUEST OR ADD A RELIGIOUS EXEMPTION.

**DHHR Response:** The WVDHHR/BPH does not support any non-medical exemptions for entry into K-12 schools in West Virginia. Parents still maintain the right to not immunize their children as they see fit, though refusal of certain vaccinations may preclude their children from K-12 school entry in public and private schools in West Virginia.

**9. Diana Riffle**  
**July 24, 2006**

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV 25301

**Legislative Rule, Title 64, Series 91**  
**Immunization Criteria For New School Enters**

Dear Ann and John,

I am writing concerning the proposed Legislative Rule, Title 64, Series 91. I strongly OPPOSE the addition of more vaccines that contain aborted fetal tissue without also adding a religious exemption.

Forty-eight other states have a religious or philosophical exemption and the statistics show that they have no more incidence of disease than we do without one. Our first amendment right to religion is being breeched in West Virginia. Adding additional vaccines without the exemption is wrong.

I also am not pleased with the way that the Department of Health is going about this. This issue is important and I don't believe that most of the public is even aware of what is going on here or there would be an outcry against this. Everyone that I have spoken to concerning this has been outraged that a Rule can be made without going through the legislature. Especially because many people have been working on this issue for so long. If the Department of Health wants to add vaccinations they need to write a Bill and put it through the proper channels of the house and senate. This issue is too important to be decided by a committee.

This rule change is unconstitutional because it forces West Virginia residents to inject their children with aborted fetal tissue because there is no alternative to the chicken pox vaccine at all.

I urge you to vote NO to this rule change without an exemption.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**10. Randy Riffle**  
**July 24, 2006**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

350 Capitol Street  
Charleston, WV 25301

**Legislative Rule, Title 64, Series 91**  
**Immunization Criteria For New School Enters**

Dear Ann and John,

I am writing concerning the proposed Legislative Rule, Title 64, Series 91. I strongly OPPOSE the addition of more vaccines that contain aborted fetal tissue without also adding a religious exemption.

Forty-eight other states have a religious or philosophical exemption and the statistics show that they have no more incidence of disease than we do without one. Our first amendment right to religion is being breeched in West Virginia. Adding additional vaccines without the exemption is wrong.

I also am not pleased with the way that the Department of Health is going about this. This issue is important and I don't believe that most of the public is even aware of what is going on here or there would be an outcry against this. Everyone that I have spoken to concerning this has been outraged that a Rule can be made without going through the legislature. Especially because many people have been working on this issue for so long. If the Department of Health wants to add vaccinations they need to write a Bill and put it through the proper channels of the house and senate. This issue is too important to be decided by a committee.

This rule change is unconstitutional because it forces West Virginia residents to inject their children with aborted fetal tissue because there is no alternative to the chicken pox vaccine at all.

I urge you to vote NO to this rule change without an exemption.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**11. Shirley Rader**  
**July 24, 2006**

Legislative Rule Title 64, Series 91

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

Charleston, WV 25301

Dear Legislators,

This rule change is unconstitutional! WV Parents deserve the right to choose. Adding more vaccines that contain Aborted Fetal Tissue without allowing for a Religious Exemption is wrong. Furthermore, it is quite concerning that the Health Department is trying to bypass proper legislative process. This is an issue that has been brought up for the past four years in the legislature and it has not been allowed to be brought up for a vote the past two years. This past session it was held in committee because the chair of that committee would not put it on the table for a vote. Now, it is going to be decided on by a committee only? THIS IS NOT HOW THE LEGISLATIVE PROCESS WAS MEANT TO WORK. The citizens of WV deserve for this issue to be brought before the full legislature.

It is unconstitutional to force parents in WV to inject their children with Aborted Fetal Tissue and dangerous neurotoxins that assault the brain and live viruses and bacteria that assault the digestive system. West Virginians deserve to have a Religious Exemption as do 48 other states. It is not right to add more vaccines (as this proposed rule change would) without also adding a Religious Exemption for those who morally oppose injecting their children with Aborted Fetal Tissue.

I ask you to PLEASE consider all of this and VOTE NO to this proposed rule change.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue and dangerous neurotoxins. The WVDHHR does not mandate that parents have their children injected with any substance. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia.

**12. Michelle Cobb**  
**July 25, 2006**

**Legislative Rule, Title 64, Series 91**

To Whom It May Concern:

I am writing to urge you NOT to pass this proposed rule. This Rule adds in more vaccines that contain Aborted Fetal Tissue and Does Not Allow for a Religious Exemption. This s forced vaccination with NO Choice.

This issue needs to be brought before the full Senate and full House for a vote. This issue is MUCH too important to be handled by only a committee. The citizens of West

Virginia deserve the right to have this brought before the full legislature. This IS WRONG!

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

PLEASE VOTE NO TO THIS RULE CHANGE.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**13. Matthew Hildebrand**  
**July 25, 2006**

Legislative Rule, Title 64, Series 91  
Immunization Criteria for New School Enterers

To Whom It May Concern:

I am writing you on behalf of my friends and family concerning Legislative Rule Title 64, Series 91 which would add more vaccinations, some of which contain aborted fetal tissue, to the already long list of mandated (forced) vaccines.

This rule change is **WRONG**. The state of West Virginia violates our First Amendment Right of Freedom of Religion by not permitting a religious exemption from mandatory vaccination. To add additional vaccines to the list only assaults our rights even further.

The way that the Health Department is going about this is also sneaky and utterly outrageous. Many families across the state have been trying for several years now to get a Religious Exemption established but to no avail due to politics and the State Department of Health. This past session in particular, the bill was written by the health department and the then health department decided not to support it. The bill was not allowed out of committee because the Chair of that committee would not allow it to come to the table for a vote. This issue needs to be decided on by the ENTIRE legislature, not just a committee.

Ultimately, the citizens of West Virginia deserve a religious exemption much like forty-eight other states have. The evidence from forty-eight other states shows that there is no greater incidence of outbreak than we currently have in West Virginia. According to the CDC, exemptions in other states have been in place for decades without higher rates of vaccine preventable illnesses.

I urge you to reconsider this proposal. Please vote **NO** to this proposed rule change. I will be keeping a close watch on this situation.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

**14. Ed Hildebrand**  
**July 25, 2006**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV 25301

**Legislative Rule, Title 64, Series 91**

I am a very concerned citizen of West Virginia and I DO NOT AGREE WITH THIS RULE CHANGE.

This Rule adds more vaccines that contain Aborted Fetal Tissue and STILL Does Not Allow for a Religious Exemption.

This issue should not be taken up in a committee; it needs to be brought before the full Senate and full House for a vote.

This is forced vaccination with no Choice. This is a violation of my right to Religious Freedom. There have been citizens working for the last 4 years to get a Religious Exemption passed in the state of WV. EVERY OTHER state except Mississippi has a Religious Exemption and it is time that WV get with the times. WV is violating the right to religious freedom granted in the Constitution.

THIS RULE CHANGE IS WRONG!!! The Public deserves a full house and senate vote during regular session. PLEASE DO NOT PASS THIS RULE CHANGE!

I would be happy to discuss this with you, my number is 304-422-5500.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**15. Jessica Hildebrand**  
**July 25, 2006**

**Legislative Rule, Title 64, Series 91**  
**Immunization Criteria for New School Enters**

To Whom It May Concern:

I am writing you on behalf of my friends and family concerning Legislative Rule Title 64, Series 91 which would add more vaccinations, some of which contain aborted fetal tissue, to the already long list of mandated (forced) vaccines.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

This rule change is **WRONG**. The state of West Virginia violates our First Amendment Right of Freedom of Religion by not permitting a religious exemption from mandatory vaccination. To add additional vaccines to the list only assaults our rights even further.

We have been trying for four years to get a religious exemption and now this Rule Change is trying to slip these vaccines in without the public knowing which is ridiculous. This issue needs to be decided on by the **ENTIRE** legislature, not just a committee.

Ultimately, the citizens of West Virginia deserve a religious exemption much like forty-eight other states have. The evidence from forty-eight other states shows that there is no greater incidence of outbreak than we currently have in West Virginia. According to the CDC, exemptions in other states have been in place for decades without higher rates of vaccine preventable illnesses.

This **IS WRONG!** PLEASE VOTE **NO** TO THIS RULE CHANGE.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**16. Lloyd McDonald**  
**July 25, 2006**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV 25301

**Legislative Rule Title 64, Series 91**

I am submitting this during the open comment period for Legislative Rule Title 64, Series 91.

**PLEASE VOTE NO TO THIS PROPOSED RULE CHANGE!**

This rule change would add additional forced vaccinations that contain Aborted Fetal Tissue and does not allow for a Religious Exemption.

This rule change is **WRONG**. The state of West Virginia violates our First Amendment Right of Freedom of Religion by not permitting a religious exemption from mandatory vaccination. To add additional vaccines to the list only adds insult.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

Many families across the state have been trying for several years now to get a Religious Exemption established but to no avail. This past session in particular, the bill was written by the health department and then the health department decided not to support it. The bill was not allowed out of committee because the Chair of that committee would not allow it to come to the table for a vote. This issue needs to be decided on by the ENTIRE legislature, not just a committee. We deserve for this issue to be considered by both the House and the Senate.

I urge you to PLEASE VOTE NO to this unconstitutional rule.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**17. Dr. George B. Higgs**  
**July 25, 2006**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV 25301  
Re: Proposed Rule Title 64, Series 91

Dear Sir:

It has been brought to my attention that the DHHR is trying to add more vaccinations to the list already in place for children to enter the school system. I am very concerned by the sheer number of vaccines currently given to children. I believe vaccinations, along with so many unhealthy changes in children's diets, are connected to the ever-increasing incidence of childhood asthma, allergies, diabetes, ADHD, autism, and possibly even cancer. I fear we are upsetting the balance of nature using vaccines as a primary means to prevent illness rather than focusing on other aspects of immunity and health.

The truth is that vaccines are neither 100 percent safe nor 100 percent effective, and their benefits come at a price. Following is some information on the 3 vaccines being discussed.

1. Chickenpox in children is usually benign. The majority of children who recover from chickenpox disease do not suffer complications and are left with lifelong immunity to the disease. The chickenpox vaccine only gives temporary immunity (the latest study showing an effective rate of only 40% (1)) and leaves children vulnerable to disease later in life when complications from chickenpox can be much more serious. Chickenpox may be severe or fatal in adults and in patients with depressed T cell immunity or in those receiving corticosteroids or chemotherapy. (2) Also, a team of scientists at Britain's

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

Public Health Laboratory Service, (PHLS), in 2002 confirmed that adults exposed to natural chickenpox disease were protected from developing shingles, but that mass vaccination against chickenpox in children may cause a future epidemic of shingles in the elderly of whom thousands could die from complications. Their research shows that adults living with children have more exposure to the virus that causes chickenpox and enjoy high levels of protection against shingles. **Being close to children means that adults are exposed to the virus, which acts like a booster vaccine against shingles, they believe. But if all children were vaccinated, adults who have had chickenpox would no longer be protected against developing shingles. (3)**

2. Mumps is another usually benign infection and complications are rare. Even with complications prognosis is favorable in most cases with central nervous system involvement. To quote Dr. Julie Gerberding of the CDC:

*"In addition, although this is a very good vaccine, it is not perfect. About 10 percent of people who get both doses of the vaccine still remain [susceptible] to mumps. So if you are in a community of 10,000 people and 10 percent of the people who got both doses of the vaccine are susceptible, once you get a little outbreak going in that community, that means that up to 1,000 people in the community would actually come down with mumps even though they were properly immunized with what we know is a very good vaccine." (4)*

3. Unlike other infectious diseases for which vaccines have been developed and mandated in the U.S., hepatitis B is not common in childhood and is not highly contagious. Hepatitis B is primarily an adult disease transmitted through infected body fluids, most frequently infected blood, and is prevalent in high risk populations such as: needle using drug addicts; sexually promiscuous heterosexual and homosexual adults; residents and staff of custodial institutions such as prisons; health care workers exposed to blood; persons who require repeated blood transfusions; and babies born to infected mothers. The U.S. and western Europe have always had among the lowest rates of hepatitis B disease in the world (0.1% to 0.5% of the general population) compared to countries in the Far East and Africa, where the disease affects 5-20% or more of the population. According to *Guide to Clinical Preventive Services*, in the U.S. "the greatest reported incidence [of hepatitis B] occurs in adults aged 20-39" and "the number of cases peaked in 1985 and has shown a continuous gradual decline since that time." An historic report in 1994 published by the Institute of Medicine, National Academy of Sciences, reviewed the medical literature for evidence that vaccines, including hepatitis B vaccine, can cause a variety of immune and neurological health problems. An

independent committee of physician experts concluded that **there were no case controlled observational studies or controlled clinical trials conducted on hepatitis B vaccine either before or after licensure to scientifically evaluate persistent reports that hepatitis B vaccine can cause sudden infant death syndrome; Guillain-Barre syndrome (GBS) and other central demyelinating diseases including transverse myelitis, optic neuritis, and multiple sclerosis; and immune system dysfunction including chronic arthritis. (5)**

These vaccinations are not necessary for the majority of healthy children. The truth is that there has never been a single, controlled clinical trial of a vaccine in which some children got it, others didn't, and then the health of both groups was studied to see how

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

they compare. The overall rates of illness and chronic diseases in children are actually higher than ever before, even though children today receive many more vaccines than in the past. And in every outbreak of infectious disease, many of those who get the disease have been fully vaccinated. (6) It is very upsetting that WV is one of only two states that do not give people freedom to choose – we need to have at least a religious exemption, if not a philosophical one as well.

I was so proud to have served in the first gulf war as a combat medic with the 201<sup>st</sup> Field Artillery. Our salute was "First West Virginia Sir!" and our battle cry was "Mountaineers are always free!" I no longer feel that way and am considering closing my practice and moving to another state so that I can raise my children with the freedom of informed consent and choice.

Thank you for giving me the opportunity to give you my opinion.

(1) 21<sup>st</sup> Annual Interscience Conference on Antimicrobial Agents and Chemotherapy  
Chicago December 16, 2001

(2) The Merck Manual – sixteenth edition

(3) JAMA May 1, 2002;287(17):2211:

(4) from a **Press Briefing on Mumps Outbreak in the Midwest with Dr. Julie Gerberding, and Dr. Jane Seward, 19 April 2006; [www.cdc.gov](http://www.cdc.gov)**

(5) [www.nvic.org](http://www.nvic.org)

(6) **Gustafson T.L., et al. (1987). Measles outbreak in a fully immunized secondary-school population. N Engl J Med, 316 (13): 771-74**

**DHHR Response:** It is true that vaccines are neither 100% safe, nor 100% effective. The fact that vaccines are not 100% effective makes it more worthwhile to protect fellow students, teachers, and other school personnel who cannot be immunized for medical reasons. While vaccines may not be 100% safe, there is clear and ample evidence that the risks of vaccinating are much greater than the risks of not vaccinating. Systemic reactions to vaccination are only a fraction of the number of cases of severe disease the vaccines prevent.

Regarding the efficacy rate of chickenpox, the Centers for Disease Control and Prevention (CDC) states that in children between 12 months to 12 years of age, vaccine efficacy is estimated to be 70%-90% against infection, and 85%-95% against severe or moderate disease. ***In field conditions, chickenpox vaccine is 80%-85% effective against infections and more than 95% effective against severe disease.***

Regarding hepatitis B vaccine, the CDC states that there are between 1-1.25 million persons in the United States chronically infected with HBV, and an additional 5,000-8,000 persons still become chronically infected each year. Only 58% of those infections occur in adults, with the remaining number occurring in adolescents, younger children and perinatally.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

**18. Kathy Heflin**  
**July 26, 2006**

Public Comment on Proposed Rule 64CSR91  
Immunization Criteria For New School Enterers

To Whom It May Concern:

I am writing to express my concerns and opposition to Proposed Rule 64CSR91.

While I am not opposed to vaccinations I am vehemently opposed to **forced** vaccination. Vaccines are medical intervention that carries a risk of injury and death and individuals or parents should be allowed to choose whether or not to accept them. There are pros and cons to every vaccine and the decision whether or not to vaccinate should be made between the individual or parent and the physician, not public health officials.

A child should not be deprived of the right to a public education because his/her parents will not accept vaccination. Some vaccines have been developed from fetal tissue and are therefore considered unacceptable to parents with certain religious beliefs. For example the Vatican has condemned the use of vaccines derived from fetal tissue. (Catholic World News.com) The chicken pox vaccine Varivax is one of them. (See product literature.)

The incidence of mumps in West Virginia is already very low – 3 reported cases in 2003, 0 in 2004 – 06. Mumps vaccine is usually administered as the “3 in 1” shot referred to as MMR, which is another vaccine derived from fetal tissue. There is apparently sufficient acceptance of the vaccine to produce adequate herd immunity. What is the justification for forcing this vaccine on parents who oppose its use?

Hepatitis B is transmitted by coming into direct contact with an infected person's body fluids. The population at high risk includes IV drug users, prostitutes, prisoners, sexually promiscuous individuals and babies born to infected mothers. I see little rationale for requiring all children to receive this potentially damaging intervention without regard to his/her risk of contracting this disease.

The DHHR should not be allowed to add vaccines to those already required until the WV Code is amended to allow exemptions other than medical. This rule gives sole authority

to the Commissioner to approve a medical exemption. Policies that are good for public health are not always supportive of individual health. There appears to be a population of people who are vulnerable to the potential damage of vaccines. This population has not been identified. The one size fits all schedule required by this rule is not safe for all children.

**DHHR Response:** The WVDHHR has researched and found that the Magisterium of the Catholic Church has never ruled one way or another on the “moral acceptability” of receiving vaccination from a product which was originally developed with the use of human cell lines. WVDHHR has found that the Catholic Church says the use of such

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

vaccines is morally acceptable though it "encourages the faithful to use alternative products where they are available."

Regarding hepatitis B vaccine, the CDC states that there are between 1-1.25 million persons in the United States chronically infected with HBV, and an additional 5,000-8,000 persons still become chronically infected each year. Only 58% of those infections occur in adults, with the remaining number occurring in adolescents, younger children and perinatally.

**19. Irene Conger**  
**July 26, 2006**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV 25301

**Legislative Rule, Title 64, Series 91**  
**Immunization Criteria For New School Enters**

Dear John and Ann,

I am writing to urge you NOT to pursue this proposed rule change. This Rule adds more vaccines that contain Aborted Fetal Tissue and toxins that attack the brain and the digestive system and Does Not allow for a Religious Exemption.

This issue needs to be brought before the full Senate and full House for a vote. There have been families across the state working with this issue for the past four years. It has been held up in committee because the committee chair would not allow it out for a vote. That is not the way the governmental system was meant to work. It is wrong for the Health Department to try to slide this in without going through the proper legislative process.

This is forced vaccination with no Choice. West Virginia families deserve their First Amendment right to religion granted in the constitution of the United States. It is wrong to add additional vaccines without adding a religious exemption. **THIS IS WRONG! PLEASE VOTE NO TO THIS RULE CHANGE.**

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue and dangerous neurotoxins. The WVDHHR does not mandate that parents have their children injected with any substance. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

**20. Annette Riffle**  
**July 26, 2006**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV 25301

**Legislative Rule, Title 64, Series 91**  
**Immunization Criteria For New School Enters**

To Whom It May Concern:

I am writing to let you know that I DO NOT AGREE WITH THIS RULE CHANGE. This rule change adds more vaccines that contain Aborted Fetal Tissue and STILL Does Not Allow for a Religious Exemption. This is a violation of my right to Religious Freedom. This is forced vaccination with no Choice.

There have been citizens working for the last 4 years to get a Religious Exemption passed in the state of WV. Forty-eight other states have a Religious Exemption and it is time that WV stop forcing citizens to have to choose between their religious beliefs and public school. WV is violating the right to religious freedom granted in the Constitution. This issue should not be taken up in a committee; it needs to be brought before the full Senate and full House for a vote.. THIS RULE CHANGE IS WRONG!!! The Public deserves a full house and senate vote during regular session. PLEASE DO NOT PASS THIS RULE CHANGE!

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**21. Lisa Fisher**  
**July 27, 2006**

The WV Dept of Health and Human Resources has introduced a Proposed Rule (Title 64, Series 91) that will add the mumps, chickenpox, and hepatitis B vaccines to the mandatory vaccination schedule. It will also require a new DHHR vaccination form to be signed by a physician before entering school for the first time.

I am submitting my comment within the allotted time period that is allowed for Legislative Rule Title 64, Series 91.

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

It is unconstitutional to force parents in WV to inject their children with vaccines made partially from aborted fetal tissue composed of proteins foreign to any other body, and dangerous neurotoxins that assault the brain and live viruses and bacteria that assault the digestive system. West Virginians deserve to have a religious and/or philosophical vaccine exemption as do 48 other states. Every child has a constitutional right to a public school education, with or without vaccines. Many children suffer vaccine damage, including autism, attention deficit disorder and other neurological and allergic disorders directly related to vaccines. I for one have a child that was damaged (with no legal proof) by vaccinations because I didn't know about the damage they cause. Now you are going to force parents to vaccinate with even more vaccines? They should have the right to decide what is best for their children.

Many of these vaccines have been outlawed in other countries because of the harm they cause. If a parent believes a child's health may be damaged by assaulting the child's immune system with the many required vaccines, they should have the constitutional right to not to vaccinate. Children should be allowed to have childhood diseases that increase the strength of their immune systems. Building our immune systems is what we need to do, not poison it with harmful substances. We now see adults having diseases, with much more serious consequences, which they should have been allowed to have in childhood. It is a bad idea to add more vaccines (as this proposed rule change would) without also adding exemptions.

I ask you to PLEASE consider all of this and VOTE NO to this proposed rule change.

**DHHR Response:** WVDHHR knows of no evidence which would support the medical claims in the above correspondence.

**22. Kerry J. Drennen**  
**July 27, 2006**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV 25301

Legislative Rule, Title 64, Series 91  
Immunization Criteria for New School Enters

I am writing to urge you NOT to pass this proposed Rule. This Rule adds in more vaccines that contain Aborted Fetal Tissue and Does Not Allow for a Religious Exemption. This issue needs to be brought before the full Senate and full House for a vote. This is forced vaccination with no Choice. We have been trying for four years to get a religious exemption and now this Rule Change is trying to slip these vaccines in without the public knowing.

**This IS WRONG!**

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

PLEASE VOTE NO TO THIS RULE CHANGE.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**23. Sharee M. Drennen**  
**July 27, 2006**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV 25301

Legislative Rule, Title 64, Series 91  
Immunization Criteria for New School Enters

I am writing to urge you NOT to pass this proposed Rule. This Rule adds in more vaccines that contain Aborted Fetal Tissue and Does Not Allow for a Religious Exemption. This issue needs to be brought before the full Senate and full House for a vote. This is forced vaccination with no Choice. We have been trying for four years to get a religious exemption and now this Rule Change is trying to slip these vaccines in without the public knowing.

This IS WRONG!

PLEASE VOTE NO TO THIS RULE CHANGE.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**24. Charles Loose**  
**July 27, 2006**

John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**  
Charleston, WV 25301

**Opposing the rule**

Legislative Rule, Title 64, Series 91  
Immunization Criteria for New School Enterers

I am writing to urge you NOT to pass this proposed Rule. This Rule adds in more vaccines that contain Aborted Fetal Tissue and Does Not Allow for a Religious Exemption. This issue needs to be brought before the full Senate and full House for a vote. This is forced vaccination with no Choice. We have been trying for four years to get a religious exemption and now this Rule Change is trying to slip these vaccines in without the public knowing.

This IS WRONG!

PLEASE VOTE NO TO THIS RULE CHANGE.

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

**25. William and Elizabeth Anderson**  
**July 27, 2006**

John D. Law, WVDHHR

Ann Spaner-BPH  
Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV 25301

Re: Proposed Rule Title 64, Series 91

I am submitting my comment within the appropriate period for Proposed Rule Title 64 Series 91, which would add mumps, chicken pox, and Hepatitis B to the vaccines required for public school admittance without giving parents a choice to opt out. There is numerous data revealing the dangerousness of vaccines. Also, the fact that vaccines are made from aborted fetal tissue is morally and religiously wrong. As you know, West Virginia is one of only 2 states that do not have a philosophical or religious exemption. It is not right to add more vaccines to the required list without giving parents the choice of exemption due to the dangerous side effects and the use of aborted fetal tissue.

**DHHR Response:** It is true that vaccines are neither 100% safe, nor 100% effective. The fact that vaccines are not 100% effective makes it more worthwhile to protect fellow students, teachers, and other school personnel who cannot be immunized for medical reasons. While vaccines may not be 100% safe, there is clear and ample evidence that

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**  
**64CSR91, Immunization Criteria for New School Enterers**

**Opposing the rule**

the risks of vaccinating are much greater than the risks of not vaccinating. Systemic reactions to vaccination are only a fraction of the number of cases of severe disease the vaccines prevent.

The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia. WVDHHR is acting within the proper legislative process to add clarity and completeness to West Virginia's public health law.

DHHR-Bureau for Public Health  
John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Bldg. Room 702  
350 Capitol Street  
Charleston, WV 25301  
Re: Legislative Rule Title 64 Series 91

The following is a comment submitted in regard to the above proposal. Please register my OBJECTION to the addition of vaccinations without exemptions!!

As you well know, forty eight of the other states allow for a religious exemption, and people of faith DO OBJECT to the use of fetal tissue used in the making of some of these vaccinations. If 98% of the public still chooses to vaccinate, as they do in these other states, those who object pose no threat to the public safety, and should be allowed to practice their religious belief, as allowed by the FEDERAL constitution, without the states governments' overruling. Clearly the precedent of the other states should apply here, and if this measure is passed you should know that a suit may well follow.

Please consider the above and vote NO to this proposed rule change.

**DHHR Response:** The WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases.

DHHR-Bureau for Public Health  
John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Bldg., Room 702  
350 Capitol Street

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

Charleston, WV 25301

Re: Legislative Rule Title 64 Series 91

The following is a comment submitted in regard to the above proposal.

Please register my OBJECTION to addition of vaccinations without exemption!!

As you well know, forty-eight of the other states allow for a religious exemption, and people of faith DO OBJECT to the use of fetal tissue used in the making of some of these vaccinations. If 98% of the public still chooses to vaccinate, as they do in these other states, those that object pose no threat to the public safety, and should be allowed to practice their religious belief, as allowed by FEDERAL constitution, without the state governments overrule. Clearly the president of the other states should apply here, and if this measure is passed you should know that a suit may well follow.

Please consider the above and vote NO to this proposed rule change.

**DHHR Response:** The WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases.

DHHR-Bureau for Public Health

John D. Law, WVDHHR

Ann Spaner-BPH

Diamond Bldg., Room 702

350 Capitol Street

Charleston, WV 25301

Re: Legislative Rule Title 64 Series 91

The following is a comment submitted in regard to the above proposal.

Please register my OBJECTION to addition of vaccinations without exemption!!

As you well know, forty-eight of the other states allow for a religious exemption, and people of faith DO OBJECT to the use of fetal tissue used in the making of some of these vaccinations. If 98% of the public still chooses to vaccinate, as they do in these other states, those that object pose no threat to the public safety, and should be allowed to practice their religious belief as allowed by FEDERAL constitution, without the state governments overrule. Clearly the president of the other states should apply here, and if this measure is passed you should know that a suit may well follow.

Please consider the above and vote NO to this proposed rule change.

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

**DHHR Response:** The WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases.

DHHR-Bureau for Public Health  
John D. Law, WVDHHR  
Ann Spaner-BPH  
Diamond Bldg., Room 702  
350 Capitol Street  
Charleston, WV 25301  
Re: Legislative Rule Title 64 Series 91

The following is a comment submitted in regard to the above proposal.  
Please register my **OBJECTION** to addition of vaccinations without exemption!!  
As you well know, forty-eight of the other states allow for a religious exemption, and people of faith **DO OBJECT** to the use of fetal tissue used in the making of some of these vaccinations. If 98% of the public still chooses to vaccinate, as they do in these other states, those that object pose no threat to the public safety, and should be allowed to practice their religious belief, as allowed by **FEDERAL** constitution, without the state governments overrule. Clearly the president of the other states should apply here, and if this measure is passed you should know that a suit may well follow.  
Please consider the above and vote **NO** to this proposed rule change.

**DHHR Response:** The WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases.

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

John D. Law, WVDHHR

Ann Spaner — BPH

Diamond Bldg., room 702

305 Capitol Street

Charleston, WV 25301

RE: Proposed Rule Title 64, Series #91 from DHHR

I would like to share a few facts with you before you make a decision on the proposed Legislative Rule Title 64, Series 91

1. This rule would add 3 more Mandatory vaccines to the existing list.
2. The Chickenpox vaccine and Rubella vaccine have Aborted fetal tissue listed in their ingredients.
3. West Virginia has no exemption in place to allow people to opt out of vaccine injections. (that is forced vaccination)
4. 48 other states and all of armed forces (army, navy, air force, marines) allow for exemptions.
5. Exemptions have been in law for well over 50 years.
6. No state has ever retracted their exemption laws, nor do any limit the number of exemptions taken.
7. More and more states are expanding their exemption laws, not restricting them.
8. Most countries around the world have a recommended (voluntary), not mandatory vaccination policy, and yet they maintain very high vaccination coverage levels.
9. Every person should have the God given right to refuse an injection.
10. West Virginian's should not have to move out of state so that their children can attend school.

We are tax paying citizens in West Virginia. We own several properties and 2 businesses in West Virginia, yet our children have to be schooled in Ohio because West Virginia has no exemption law. This is financially and emotionally burdensome to our family.

The rest of this great nation and all of the enlisted men and women of this country have the right to choose whether they want to be vaccinated or not. The Health Department of West Virginia wants to continue to deny its citizens that right.

What would happen if the Health Department decided to add a vaccine that you find morally or healthfully offensive, yet they make it mandatory for everyone, and if you refuse to be vaccinated you cannot go to school or work? What kind of state is that?

This is what this Interim Rule change will do. The Health department will be able to make mandatory any vaccine it wants, and the people of West Virginia will have to be injected or else.

This is not protecting the Citizens of West Virginia, this is endangering every single one of us.

Please do not add any more vaccines to the Mandatory list unless the citizens of

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**

**Opposing the rule**

**64CSR91, Immunization Criteria for New School Enterers**

West Virginia have the God given right to say "No Thank you, I do not want that injected into me or my children."

Thank you very much for your time, and I pray that you will prayerfully consider what I have told you.

Sincerely,

Linda Grindley

243 Arborland Road

Wheeling, West Virginia

26003

304-242-6070

John Grindley July 27, 2006

243 Arborland Road

Wheeling, WV 26003

304-242-6070

John D. Law, WVDHHR

**DHHR Response:** WVDHHR does not consider aborted fetal tissue as "ingredients" of rubella or chickenpox vaccines. The vaccines were first developed using human cell lines obtained from a legal abortion in the early 1960's. Characterizing fetal tissue as ingredients implies that more abortions were or are needed to produce these vaccines over time. No further cell lines are or were needed to produce these life-saving vaccines. The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. The WVDHHR does not mandate that parents have their children immunized. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may preclude their children from attending public or private school in West Virginia.

943 Deville Drive E

Largo, FL 33771-1122

Toll Free: 877-488-LIFE

<http://www.cogforlife.org>

July 25, 2006

John D. Law, Ann Spanner -WV Bureau of Public Health

Diamond Building, Room 702

350 Capitol Street

Charleston, WV, 25301

Dear Mr. Law and Ms. Spanner:

I am writing on behalf of the citizens of the State of WV regarding the proposed Rule Change, Title 64, Series 91, to add the chickenpox, mumps and Hepatitis-B shots to the required immunizations for school admission.

Children of God for Life opposes mandating these vaccines for several reasons:

1) There is currently no religious exemption in the State of WV, therefore, citizens will be forced to act against their moral and religious beliefs by using these

## COMMENTS AND RESPONSES

Opposing the rule

WVDHHR, Bureau for Public Health

### 64CSR91, Immunization Criteria for New School Enterers

vaccines. The chickenpox or varicella vaccine and the MMR vaccine (measles, mumps, rubella trivalent) are both manufactured using aborted fetal cell lines. Hepatitis-B is a disease spread through sexual activity or by direct contact with infected blood. The Centers for Disease Control list prostitutes, homosexuals, prison inmates and street IV drug users as those most likely to contract this disease

— not children.

2) Parents — not the State — should have the right to raise their children in accord with their moral and religious beliefs.

3) The citizens and State Legislature have the right to vote on these issues. If changes to current policies are adopted through a Rule Change, the State becomes a dictatorship — not a democracy.

4) From a medical perspective, Title 64 diminishes the right of family physicians to determine whether or not there is a medical contraindication to using any vaccines by appointing the Commissioner as final arbitrator. Not only is such a move dangerous to the health and safety of the children of WV, it will make the State liable for any injury, damages or death from adverse reactions if the medical advice of the physician is ignored.

Children of God for Life further encourages the State of WV to adopt religious exemptions as part of their State immunization policies to protect the rights and freedom of parents who oppose products taking their origin in abortion. For example, there are no ethical alternatives for chickenpox or MMR in the United States and families in 48 States who object to such products enjoy the freedom of abstaining in accord with their religious and moral beliefs.

*Children of God for Life is a non-profit 501-C corporation. All donations are tax deductible. Fed ID: 59-36712 14*

*Visit our Website at <http://www.cogforlife.org>*

6Add / dV

- Page 2 -

Religious exemptions have been in place for decades across the United States with absolutely no impact on outbreaks or detriment to public health. In fact, numerous outbreaks are occurring nationwide among vaccinated children. In several states the chickenpox vaccine failure rate is as high as 85 - 90% among vaccinated children. For example, in an outbreak of 44 cases in a Wisconsin school last January, all but 2 of the children had been vaccinated. The outbreak occurred when a child who had received the live virus vaccine infected other vaccinated children at school.

Even in states where vaccination rates are extremely high, outbreaks of diseases still occur among vaccinated children. Most notably in Iowa, where the vaccination rate among all students through middle school age for 2 doses of MMR was at 98% in 2005, an outbreak of mumps still occurred among the vaccinated population. And while the State of Iowa does allow religious exemptions, the outbreak was not among those with exemptions on file.

In summary, from a moral and medical perspective, the adoption of Rule Change 64-91 would result in a gross violation of the religious and moral rights of the citizens of WV. We sincerely hope the State will leave the right to make medical

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

and moral choices with the parents. If you have any questions, please feel free to contact me directly at 877-488-5433.

Thank you for your consideration of this most important issue for the families of WV. Sincerely,

,PA4

Debra L. Virmedge

Executive Director

CC: Governor Joe Manchin ifi, State of WV

Steven White, MD, Catholic Medical Association

*Children of God for Life is a non-profit 501-C corporation. All donations are tax deductible. Fed ID: 59-36712 14*

*Visit our Website at [http://www.cogforl\(fe.org](http://www.cogforl(fe.org)*

87/27/2886 22:28 3843727559 LEE JEB DESIGN PAGE 81/13

**DHHR Response:** WVDHHR does not consider this law as one which would force persons to immunize their children even though failure to receive some immunizations could preclude children from attending private or public school in West Virginia. As for the religious implications cited, The WVDHHR has researched and found that the Magisterium of the Catholic Church has never ruled one way or another on the "moral acceptability" of receiving vaccination from a product which was originally developed with the use of human cell lines. WVDHHR has found that the Catholic Church says the use of such vaccines are morally acceptable though it "encourages the faithful to use alternative products where they are available." WVDHHR knows of no other religious organization which has stated objections to specific vaccines. The fact that a large mumps outbreak occurred in a well-vaccinated population illustrates how difficult it is to achieve herd immunity, making the case for strident immunization requirements stronger.

July 24, 2006

Re: Legislative Rule Title 64, Series 91

Dear Delegates and Senators:

I am writing you regarding Legislative Rule Title 64, Series 91. Although I have vaccinated my children, I disagree with the state's mandatory vaccination policy altogether. I understand that 48 other states allow for a religious exemption and in 30 years have not had an increase in outbreaks or lost their herd immunity.

Please vote no to this rule change.

Sincerely,

A71

rooke N. Sigman

3656 Springfield Drive

Charleston, West Virginia 25306

**DHHR Response:** The WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable

**64CSR91, Immunization Criteria for New School Enterers**

diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases. The fact that a large mumps outbreak occurred in a well-vaccinated population illustrates how difficult it is to achieve herd immunity, making the case for strident immunization requirements stronger.

July 24, 2006

Re: Legislative Rule Title 64, Series 91

Dear Delegates and Senators:

I am writing you regarding Legislative Rule Title 64, Series 91. My family and I are asking that you please vote NO to this legislative rule change.

We have chosen not to vaccinate our child because they axe ineffective, harmful, and contain aborted fetal (and animal) tissues. We ask that you please give us the same religious exemption that they have in FORTY-EIGHT other states, some in ple for over thirty years.

Please vote no to this rule change.

Ryan

2335 Rt21

Ripley, WV 25271

**DHHR Response:** The WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases. The fact that a large mumps outbreak occurred in a well-vaccinated population illustrates how difficult it is to achieve herd immunity, making the case for strident immunization requirements stronger.

July 24, 2006

Re: Legislative Rule Title 64, Series 91

Dear Delegates and Senators:

I sin writing you regarding Legislative Rule Title 64, Series 91. Our finilly emphatically opposes this rule change and vaccinations in general. We have studied this issue for several years and have come to the conclusion that the vaccinations are not only ineffective, but harmful to our children and not anything that we want our grandchildren subjected to.

We are, of course, concerned about the aborted fetal tissue in the vaccines, but also the animRIs harmed. in their making. Our moral values prohibit us from ingesting snim1 flesh (we are vegetarians); however, the state of West Virginia

**COMMENTS AND RESPONSES**  
**WVDHHR, Bureau for Public Health**

**Opposing the rule**

**64CSR91, Immunization Criteria for New School Enterers**

expects us to inject animal flesh into our children? Unacceptable.

Please vote NO to this rule change.

Gay,

**DHHR Response:** DHHR believes strongly in individual's rights to hold views and maintain their convictions regardless of the degree to which those may be outside of the mainstream. Similarly, regardless of what is deemed to be universal acceptance and belief in the safety, effectiveness and protection offered by the vaccines being mandated for school entry, WVDHHR believes in parents/guardians right to refuse these vaccines for their children and choose other alternatives for the education of their children.

July 24, 2006

Re: Legislative Rule Title 64, Series 91

Dear Delegates and Senators:

I am writing you regarding Legislative Rule Title 64, Series 91 which would add additional, INEFFECTIVE AND HARMFUL, Vaccjflatofls to an already over-Inflated protocol.

I have studied this subject for four years, along with my wife, and we have come to the conclusion that these vaccinations are harmful to our children and our useless and the state of West Virginifi's forcing them upon mi1ies is unconstitutional.

Our goal is for West Virginia to adopt a religious exemption, as forty-eight other states have successfully imposed (for overy 30 years). These states have not lost herd immunity and have not experienced an increase in outbreaks.

I urge you to please use common sense and vote NO to this rule change. I would appreciate a phone call expressing your views on this rule at my home 304-372-7559. We will be watching this vote closely.

Sincerely,

Route I Box 35

Gay, West Virginia 25244

304-372-7559

**DHHR Response:** DHHR believes strongly in individual's rights to hold views and maintain their convictions regardless of the degree to which those may be outside of the mainstream. Similarly, regardless of what is deemed to be universal acceptance and belief in the safety, effectiveness and protection offered by the vaccines being mandated for school entry, WVDHHR believes in parents/guardians right to refuse these vaccines for their children and choose other alternatives for the education of their children.

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

John D. Law, WVDHHR

Ann Spaner- EPH

Diamond Building, Room 702

350 Capitol Street

Charleston WV 25301

Legislative Rule, Title 64, Series 91

Immunization Criteria for New School Enterers

I am writing to urge you NOT to pass this proposed Rule. This Rule adds in more vaccines

that contain Aborted Petal Tissue and Does Not Allow for a Religious Exemption.. This issue needs to be brought before the full Senate and full House for a vote. This is forced vaccination with no Choice. We have been trying for four yeais to get a religious exemption and now this Rule Change is trying to slip these vaccines in without the public knowing.

This IS WRONG!

PLEASE VOTE NO TO THIS RULE CHANGE.

Sincerely,

*M r r d*

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. The WVDHHR does not mandate that parents have their children injected with any substance. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may cause parents to seek alternative forms of education for their children.

/

John 1). Law, WVDHHR

Ann Spaner- BPH

Diamond Building, Room 702

350 Capitol Street

Charleston, WV 25301

Legislative Rule, Title 64, Series 91

Immunization Criteria for New School Enterers

I am iting to urge you NOT to pass this proposed Rule. This Rule adds in more vaccines

that contain Aborted Petal Tissue and Does Not Allow for a Religious Exemption. This issue needs to be brought before the full Senate and full Touse for a vote. This is forced vaccination with no Choice. We have been trying for four years to get a religious exemption and now this Rule Change is trying to slip these vaccines in without the public knowing.

This IS WRONG!

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

**PLEASE VOTE NO TO TIILS RULE CHANGE-**

Sincerely,

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. The WVDHHR does not mandate that parents have their children injected with any substance. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may cause parents to seek alternative forms of education for their children.

John D Law, WVDHHR

Ann Spaiier- BPH

Diamond Building, Room 702

350 Capitol Street

Charleston, WV 25301

Legislative Rule, Title 64, Series 91

Immunization Criteria for New School Enterers

I am writing to urge you NOT to pass this proposed Rule. This Rule adds in more vaccines

that contain Aborted Fctal Tissue and Does Not Allow for a Religious Exemption. This issue needs to be brought before the full Senate and full House for a vote. Th15 is forced vaccination with no ChoiceS Wc have been trying for four years to get a religious exemption and now this Rule Change is tying to slip these vaccines in without the public knowing.

This IS WRONG!

PLEASE VOTE NO TO THIS RULE CHANGE.

Sincerely,

7 1,/1,21A

P.'

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. The WVDHHR does not mandate that parents have their children injected with any substance. Citizens of West Virginia may refuse any immunizations as they see fit, though the refusal of certain vaccines may cause parents to seek alternative forms of education for their children.

July 27, 2006

John D. Law, WVDHHR

Ann Spaner- BPH

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

Diamond Building, Room 702

350 Capitol Street

Charleston, WV 25301

Re: Proposed Rule Title 64, Series 91

I am submitting my comment within the appropriate period for Proposed Rule Title 64 Series 91, which would add mumps, chicken pox, and Hepatitis B to the vaccines required for public school admittance without giving parents a choice to opt out. There is numerous data revealing the dangerousness of vaccines. Also, the fact that vaccines are made from aborted fetal tissue is morally and religiously wrong. As you know, West Virginia is one of only 2 states that do not have a philosophical or religious exemption. It is not right to add more vaccines to the required list without giving parents the choice of exemption due to the dangerous side effects and the use of aborted fetal tissue.

Thank you,

/

- C. :—'-- - j(-y (.

William and Elizabeth Anderson

Mannington, WV

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Also, the WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases.

John D. Law, WVDHHR

Ann Spaner- BPH JUL 2 5 2!06

Diamond Building, Room 702

350 Capitol Street

Charleston, WV 25301

Legislative Rule, Title 64, Series 91

Immunization Criteria For New School Enterers

I am a very concerned citizen of West Virginia and I DO NOT AGREE WITH THIS RULE

CHANGE. This Rule adds more vaccines that contain Aborted Fetal Tissue and STILL Does Not Allow for a Religious Exemption. This issue should not be taken up in a committee; it needs to be brought before the full Senate and full House for a vote. This is forced vaccination with no Choice. This is a violation of my right to Religious Freedom. There have been citizens working for the last 4 years to get a Religious Exemption passed in the state of WV. EVERY OTHER state

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

except

Mississippi has a Religious Exemption and it is time that WV get with the times. WV is violating the right to religious freedom granted in the ConsUtution. THIS RULE CHANGE IS WRONG!!! The Public deserves a full house and senate vote during regular session. PLEASE DO NOT PASS THIS RULE CHANGE!

I would be happy to discuss this with you, my number is 304-485-1925.

nce citizen,

Christina Peters

3513 Liberty Street

Parkersburg WV 26104

**DHHR Response:** The WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases. The fact that a large mumps outbreak occurred in a well-vaccinated population illustrates how difficult it is to achieve herd immunity, making the case for strident immunization requirements stronger.

July 24, 2006

John D. Law, WVDHHR

Ann Spaner- BPH 200

Diamond Building, Room 702

350 Capitol Street

Charleston, WV 25301

Legislative Rule. Title 64, Series 91

Immunization Criteria For New School Enterers

I am writing to urge you NOT to pass this. This Rule adds in more vaccines that contain Aborted Fetal Tissue and Does Not Allow for a Religiou5 Exemption. This issue needs to be brought before the full Senate and full House for a vote. This Is forced vaccination with no Choice. We have been trying for four years to get a religious exemption and now this Rule Change is trying to slip thcsc vaccines in without the pubLic knowing. This IS WRONG! ?LEASE VOTE NO TO THIS RULE CHANGE.

I would be happy to discuss this with you, my number is 304-485-7322.

A Very Concerned Citizen,

Michelle McVaney

El Worthington Lane

Parkersbui-g WV 26104

**COMMENTS AND RESPONSES****Opposing the rule****WVDHHR, Bureau for Public Health****64CSR91, Immunization Criteria for New School Enterers**

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Also, the WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases.

John D. Law, WVDHI1R

Ann Spaner- RPM

Diamond Building, Room 702

350 Capitol Street

Charleston, WV 25301

Legislative Rule, Title 64, Series 91

Immunization Criteria for New School Enterers

I am writing to urge you NOT to pass this proposed Rule. This Rule adds in more vaccines

that contain Aborted Fetal Tissue and Does Not Allow for a Religious Exemption. This issue needs to be brought before the flll Senate and flll House for a vote. This is forced vaccination with no Choice. We have been trying for four years to get a religious exemption and tiow this Rule Change is trying to slip these vaccines in without the public knowing.

This IS WRONG!

PLEASE VOTE NO TO THIS RULE CHANGE

Sincerely

Maitland Center Commons, Second Floor 100 Mountain View Road, Suite 2775

Maitland, Florida 32751 Lynchburg, Virginia 24502

(800) 671-1776 Telephone (434) 592-7000 Telephone

(407) 875-0770 Fax (434) 582-7019 Fax

www.LC.org www.LC.org

Liberty@LC.org Liberty@LC.org

Reply to: Virginia

**DHHR Response:** The WVDDHR and the overwhelming majority of the public and private medical community disagree strongly with the characterization of vaccines as containing aborted fetal tissue. Also, the WVDHHR strongly believes that allowing non-medical exemptions would endanger the health of all students, teachers, other school personnel as well as the general population by allowing vaccine-preventable diseases to increase. Most of all, persons in and out of the education system who cannot receive vaccinations for medical reasons would be placed at heightened risk. WVDHHR does not believe that the laws of

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

other states should impact on it's effort to protect all of West Virginia's citizens from vaccine-preventable diseases.

July 26, 2006

Via Facsimile & US Mail

John D. Law

West Virginia Department of Health and Human Resources

Ann Spaner

West Virginia Bureau of Public Health

Diamond Building, Room 702

350 Capitol St

Charleston, WV 25301

RE: Immunization Criteria for New School Enterers

Dear Mr. Law and Ms. Spaner:

Liberty Counsel has been contacted by West Virginia families who are quite concerned about the proposed rule adding new immunizations to the mandatory vaccinations for new school enrollees. These families have asked us to offer you the following comments regarding the proposal.

By way of brief background, Liberty Counsel is a national public interest law firm with offices in Florida and Virginia and affiliate attorneys throughout the country. We provide legal advice and representation on issues related to religious liberty, the sanctity of human life and the traditional family. We have represented families throughout the country on issues related to mandatory vaccinations, including in court actions challenging the failure to offer or adhere to religious exemptions. The families' primary concern relates not only to the new proposed rules, but to the state's overall mandatory vaccination rules. West Virginia is one of only two states that does not permit parents to exercise their First Amendment right of freedom of religion by permitting a religious exemption from the mandatory vaccination requirement. Some of the families have worked with the legislature for many years to enact a religious exemption, but have as yet been unsuccessful. This has caused significant problems for these families, who have had to choose between violating their religious convictions or forgoing public education for their children. In some cases, families actually have to send their

Mr. John D. Law

Ms. Ann Spaner

July 26, 2006

Page 2

children to private schools in neighboring states in order to not violate their sincerely held religious beliefs. This is contrary to the First Amendment's assurance of the right to free exercise of religion. The new proposed rules would exacerbate the existing problem and would create additional conflicts for some parents with children currently enrolled in public schools.

The proposed new rules would add immunizations against mumps, Hepatitis B

**64CSR91, Immunization Criteria for New School Enterers**

and Varicella (chickenpox) to the list of mandatory vaccinations for children entering public school in West Virginia. The vaccines for mumps and varicella are manufactured from aborted fetal tissue, and in the case of the varicella vaccine, there is no alternative vaccine that is not made from aborted fetal tissue. The families who have contacted Liberty Counsel are opposed to abortion and therefore find the use of vaccines made from the tissues of aborted fetuses morally objectionable. The aborted fetus has already had his or her human dignity severely violated. Using an aborted fetus' tissues amounts to further violation of the dignity of the unborn person. Some think using such vaccines constitutes complicity in the evil of abortion. The Roman Catholic church in particular has spoken out against the use of vaccines manufactured from aborted fetal tissue by those who adhere to that faith. Since there is no alternative vaccination for chickenpox that is not manufactured from aborted fetal tissue, parents will be unable to adhere to their religious convictions and keep their children in public school if the new proposal is adopted.

In addition to the problem of some vaccines derived from aborted tissue, there is a larger problem with mandatory vaccines. Many people have a sincerely-held religious belief regarding vaccines in general. These individuals believe that God created the human body as a temple, and that the body should not be destroyed by injecting a virus into the body. This creates a religious freedom issue for all vaccines, even those not derived from aborted fetus, or those like, the mumps vaccine, that have non-aborted tissue alternatives.

The proposed addition of a vaccine against Hepatitis-B poses additional problems for many parents, including those who presently have children in public school. Hepatitis-B can only be transmitted by being born to a mother who has the virus, contracting it by drug use through the sharing of needles, or contracting it through sexual contact. Since those who would be receiving the vaccine would not have been born with Hepatitis-B, the only ways that the children would contract the disease would be through the use of illicit drugs or sexual behavior. These are behaviors which are contrary to the religious beliefs and traditions under which the children are being raised. For these parents, being required to immunize their children against Hepatitis B is akin to the state forcing them to give their children clean needles or condoms. As well as violating their religious beliefs against injecting their children with viruses, the Hepatitis-B vaccine also violates their rights as parents to direct the upbringing of their children.

The parents' concerns are further exacerbated by scientific findings regarding the efficacy of the vaccines and the relative risks posed by the vaccines themselves as

Mr. John D. Law

Ms. Ann Spaner

July 26, 2006

Page3

compared to the diseases they are supposed to prevent.

**Concerns Related to Chickenpox Vaccine**

Even Merck, the sole manufacturer of the chickenpox vaccine states in their product information that, chickenpox "is generally a benign, self-limiting disease."

**64CSR91, Immunization Criteria for New School Enterers**

Chickenpox is at best, a scratchy annoyance, but hardly considered life threatening. And while there have been deaths associated with the disease, it is not due to the virus itself, but rather, that another immunodeficiency problem was aggravated by the onset of the disease. The vaccine itself is not without serious problems. According to the Journal of the American Medical Association, chickenpox vaccine failure occurred in over 1,000 of 6,000 recipients. JAMA reports licensing label revisions for the chickenpox vaccine include warnings of seizures, face, arms and leg paralysis, brain and spinal cord inflammation. According to the Illinois Vaccine Awareness Committee, "From the chickenpox vaccine license in 1995 to March 6, 2001, the federal government has received more than 12,000 adverse reaction reports including 600 serious ones and 31 deaths." Further, according to Dr. Chris Kahlenborn, about 95% of U.S. born mothers have either been exposed to or have naturally contracted the varicella (chickenpox) virus and pass these antibodies on to their newborn babies giving them natural immunity for the first five and one-half months of life. Breastfeeding mothers enjoy even longer protection for their babies. This is important because infants cannot receive the vaccine and if they contract the virus without that maternal antibody protection, they are at a high risk of death. (31%). The mother who has been vaccinated as a child will not possess sufficient antibodies — if any at all in order to pass on the needed protection for her baby. This is because according to the New England Journal of Medicine, lifetime immunity is provided only by the disease itself and certainly not by the vaccine as recent studies have revealed. In fact, such studies also revealed that even using a second dose of the vaccine did not provide any appreciable response in immunity. Many of these children who were tested post vaccination possessed absolutely no antibodies whatsoever to the varicella virus. In contrast, those who lived with siblings or others in their household who had contracted chickenpox had very high and sustained levels of antibodies.

In adults the chickenpox virus carries 35 times the morbidity and twenty times the mortality as compared to children, meaning the vaccination of children could lead to deadly problems among adults in the future who will no longer have the benefit of exposure to the disease. Any sort of extended protection against varicella requires exposure to natural infection. Not only will children immunized against chickenpox have to worry about avoiding the disease as adults, another recent study concludes children who have been injected with the vaccine are much more likely to contract shingles when they grow older. Researchers from England's Public Health Laboratory Service reported in May 2002 that children vaccinated for chickenpox have a higher risk of contracting shingles as adults, which is caused by the same virus that manifests itself as chickenpox and can be especially dangerous for the elderly and those with impaired immune systems.

Mr. John D. Law

Ms. Ann Spaner

July 26, 2006

Page 4

In light of the expected long-term negative effects of the vaccine on society as a whole and the other issues discussed above, it is not prudent or even ethical to

**64CSR91, Immunization Criteria for New School Enterers**

arbitrarily vaccinate children for chickenpox. It should also be noted that Merck's product insert also states that, "Varivax has not been evaluated for its carcinogenic or mutagenic potential or its potential to impair fertility". Given that statement alone, parents have every right to strongly object to this vaccine for their children and should not be subjected to mandatory vaccination requirements for chickenpox. This is particularly true when they cannot be exempted from the vaccine for religious reasons or other than for so-called "medical reasons" that are ill-defined and subjective.

**Concerns Related to Hepatitis-B Vaccine**

Following is a general overview of what is and is not known about hepatitis B disease and the hepatitis B vaccine, which offer further reasons for concern among parents of school-age children facing possible mandatory immunization. *Hepatitis B Is Not Highly Contagious* - Unlike other infectious diseases for which vaccines have been developed and mandated in the U.S., hepatitis B is not common in childhood and is not highly contagious. Hepatitis B is primarily an adult disease transmitted through infected body fluids, most frequently infected blood, and is prevalent in high risk populations such as needle using drug addicts; sexually promiscuous heterosexual and homosexual adults; residents and staff of custodial institutions such as prisons; health care workers exposed to blood; persons who require repeated blood transfusions and babies born to infected mothers. As discussed above, according to CDC Prevention Guidelines: A Guide to Action (1997), a book written by federal public health officials at the U.S. government Centers for Disease Control (CDC), "the sources of [hepatitis B] infection for most cases include intravenous drug use (28%), heterosexual contact with infected persons or multiple partners (22%) and homosexual activity (9%)." According to Harrison's Principles of Internal Medicine (1994), mother to child transmission of hepatitis B "is uncommon in North America and western Europe."

*Hepatitis B Not A Killer Disease For Most* - Symptoms of hepatitis B disease include nausea, vomiting, fatigue, low grade fever, pain and swelling in joints, headache and cough that may occur one to two weeks before the onset of jaundice (yellowing of the skin) and enlargement and tenderness of the liver, which can last for three to four weeks. Fatigue can last up to a year. According to Harrison's, in cases of acute hepatitis B "most patients do not require hospital care" and "95 percent of patients have a favorable course and recover completely" with the case-fatality ratio being "very low (approximately 0.1 percent)." Those who recover completely from hepatitis B infection acquire life-long immunity. Of those who do not recover completely, fewer than 5 percent become chronic carriers of the virus with just one quarter of these in danger of developing life threatening liver disease later in life, according to Robbins Pathologic Basis of Disease (1994), a medical college textbook.

Mr. John D. Law

Ms. Ann Spaner

July 26, 2006

Page 5

*Hepatitis B Low In U.S.* -The U.S. and western Europe have always had among

**64CSR91, Immunization Criteria for New School Enterers**

the lowest rates of hepatitis B disease in the world (0.1% to 0.5% of the general population) compared to countries in the Far East and Africa, where the disease affects 5-20% or more of the population. According to Guide to Clinical Preventive Services, in the U.S. "the greatest reported incidence [of hepatitis B] occurs in adults aged 20-39" and "the number of cases peaked in 1985 and has shown a continuous gradual decline since that time." Even though hepatitis B disease is uncommon in the general population in the U.S., it continues to be high among those engaged in high-risk behaviors, especially IV drug use. Guide to Clinical Preventive Services states that "In recent years, a growing number of injection drug users have become infected; currently, between 60% and 80% of persons who use illicit drugs parenterally (through the skin such as with a needle stick) have serologic evidence of [hepatitis B] infection." In 1991, there were 18,003 cases of hepatitis B reported in the U.S. out of a total U.S. population of 248 million. According to the October 31, 1997 Morbidity and Mortality Weekly Report published by the CDC, in 1996 there were 10,637 cases of hepatitis B reported in the U.S. with 279 cases reported in children under the age of 14 and the CDC stated that "Hepatitis B continues to decline in most states, primarily because of a decrease in the number of cases among injecting drug users and, to a lesser extent, among both homosexuals and heterosexuals of both sexes."

*Hepatitis B Vaccine Was Licensed By FDA Without Adequate Proof of Long Term Safety-* In 1986, the FDA gave Merck & Co. a license to market the first recombinant DNA hepatitis B vaccine, which replaced the old hepatitis B vaccines made from blood taken from human chronic hepatitis B virus carriers. In awarding Merck & Co. and, later, SmithKline Beecham Pharmaceuticals, licenses to market their genetically engineered hepatitis B vaccines in the U.S., the FDA allowed both drug companies to use "safety" studies which only included a few thousand children monitored for only four or five days after vaccination to check for reactions. As "proof" their hepatitis B vaccine is safe to be used in children, Merck & Co. stated in their 1993 product insert that "In a group of studies, 1636 doses of RECOMBIVAX HB were administered to 653 healthy infants and children (up to 10 years of age) who were monitored for 5 days after each dose." Merck & Co. found that injection site and systemic complaints, such as fatigue and weakness, fever, headache and arthralgia (joint pain), were reported following up to 17 percent of all hepatitis B injections. Because the FDA did not require drug companies to provide scientific evidence that hepatitis B vaccine does not compromise the immune and neurological systems of children and adults over weeks, months or years post-vaccination, Merck & Co. warns in the 1996 product insert that "As with any vaccine, there is the possibility that broad use of the vaccine could reveal adverse reactions not observed in clinical trials" and SmithKline Beecham (1993) has a similar warning that "it is possible that expanded commercial use of the vaccine could reveal rare adverse reactions. Another warning in the Merck 1996 product insert is "it is also not known whether the vaccine can cause fetal harm when administered to a pregnant woman or can affect reproduction capacity" and "it is not known whether the vaccine is excreted in human milk. Because many drugs are secreted in human milk,

**64CSR91, Immunization Criteria for New School Enterers**

caution should be exercised when the vaccine is administered to a nursing woman.”

Mr. John D. Law

Ms. Ann Spaner

July 26, 2006

Page 6

And, although doctors routinely inject hepatitis B vaccine into children along with many other vaccines such as DPT, HIB, MMR and chicken pox vaccine, Merck & Co. state in the 1996 product insert: “Specific data are not yet available for the simultaneous administration of RECOMBIVAX HB with other vaccines.”

*Hepatitis B Vaccine Efficacy Also Questioned* - All vaccines stimulate only an artificial, temporary immunity, and the length of immunity conferred by the hepatitis B vaccine and the future need for more “booster” doses later in life is still not clear. Merck & Co state in their 1996 hepatitis B vaccine product insert that “the duration of the protective effect of RECOMBIVAX HB in healthy vaccinees is unknown at present and the need for booster doses is not yet defined.” In the CDC Prevention Guidelines:

A Guide to Action (1997), the CDC states “The duration of protection [of hepatitis B vaccine] and need for booster doses are not yet fully defined. Between 30% and 50% of persons who develop adequate antibody after three doses of vaccine will lose detectable antibody within 7 years but protection against vi remic infection and clinical disease appears to persist.” If immunity only lasts 7 years, babies vaccinated with hepatitis B vaccine may be candidates for more shots at age seven.

*IOM Report Reveals Lack Of Adequate Scientific Studies* - In Adverse Events Associated with Childhood Vaccines published in 1994 by the Institute of Medicine, National Academy of Sciences, observations about the limitations of hepatitis B vaccine studies included the statements that “it is important to note that individual trials usually involved a few hundred subjects for study.. .when larger vaccination programs were monitored, observations of adverse events were necessarily less detailed and less accurately reported” and “the studies were not designed to assess serious, rare adverse events; the total number of recipients is too small and the follow-up generally too short to detect rare or delayed serious adverse reactions.” The IOM report also noted that no controlled observational studies or controlled clinical trials have ever been held to evaluate repeated reports that hepatitis B vaccine can cause Guillain-Barre syndrome; arthritis; transverse myelitis, optic neuritis, multiple sclerosis and other central demyelinating diseases of the nervous system (degeneration of the myelin sheath of the brain that helps transmit nerve impulses); or sudden infant death syndrome (SIDS).

A major conclusion of the Institute of Medicine report was that almost no basic science research has been undertaken to define at the cellular and molecular level the biological mechanism of vaccine-induced injury and death. The report concluded that “The lack of adequate data regarding many of the adverse events under study was of major concern to the committee.. .the committee encountered

**64CSR91, Immunization Criteria for New School Enterers**

many gaps and limitations in knowledge bearing directly or indirectly on the safety of vaccines. These include inadequate understanding of the biologic mechanisms underlying adverse events following natural infection or immunization, insufficient or inconsistent information from case reports and case series.. .and inadequate size or length of follow-up of many population-based epidemiologic studies....”

*Medical Literature Cites Immune System/Brain Damage* - During the past decade, there have been many reports in the medical literature (primarily in international medical journals rather than U.S. medical journals) that hepatitis B vaccination is causing chronic immune and neurological disease in children and adults, including lupus: Tudela & Bonal (1992); Mamoux & Dumont (1994); Guiserix (1996); arthritis, including polyarthritis and rheumatoid arthritis: Christan & Helm (1987); Hachulla et al (1990); Rogerson & Nye (1990); Biasi et al (1993),(1994); Vautier & Carty (1994); Hassan & Oldham (1994); Rheumatic Review (1994); Grosset al (1995); Pope et al (1995); Cathebras et al (1996); Soubrier et al (1997); Guillain Barre Syndrome GBS): Shaw et al (1988), Tuohy (1989); demyelinating disorders such as optic neuritis, Bell’s Palsy, demyelinating neuropathy, transverse myelitis and multiple sclerosis: Shaw et al (1988); WHO (1990); Reutens et al (1990); Herroelen et al (1991); Nadler (1993); Brezin et al (1993); Mahassin et al (1993); Kaplanski et al (1995); Baglivo et al (1996); Marsaudon & Barrault (1996); Berkman et al (1996); Waisbren (1997); diabetes mellitus: Poutasi (1996); Classen (1996); chronic fatigue: Salit (1993); Delage et al (1993); vascular disorders: Fried et al (1987); Goolsby (1989); Cockwell et al (1990); Poullin & Gabriel (1994); Mathieu et al (1996); Graniel et al (1997); and others.

These significant questions related to the Hepatitis-B vaccine in particular illustrate that the state should exercise caution before adding this vaccination to the list of mandatory immunizations for school children regardless of the religious issues raised by some families. The very significant questions also emphasize why the lack of a religious exemption is a substantial omission that violates the religious and other constitutional rights of parents.

A final comment relates to the state’s concern about the effect of permitting exemptions from the vaccination requirement. To the extent that the state is concerned about exemptions leading to increased outbreaks, the evidence from the 48 states with exemptions is to the contrary. According to the Centers for Disease Control surveys, such exemption statutes have been in place for decades without posing any major risk to public health, and states allowing these exemptions do not have higher rates of vaccine preventable illnesses. *Summary of Notifiable Diseases, United States, 1997, November 20, 1998, Morbidity and Mortality Weekly Report (MMWR).*

**Conclusion**

In light of the critical issues related to the religious and medical issues posed by

**COMMENTS AND RESPONSES**

**Opposing the rule**

**WVDHHR, Bureau for Public Health**

**64CSR91, Immunization Criteria for New School Enterers**

these proposed additional vaccinations, we urge the Department to reconsider its proposal to add vaccinations for mumps, Hepatitis-B and chickenpox to the list of mandatory vaccines prior to enrollment in public school.

Mr. John D. Law

Ms. Ann Spaner

July 26, 2006

We also ask that the Department reconsider its opposition to enacting a religious exemption similar to that enacted by 48 other states.

tAdmitted only in Florida and California'

Sincerely,

listert

Mary E.

cc: Gov. Joe Manchin III

**DHHR Response:** It is true that vaccines are neither 100% safe, nor 100% effective. The fact that vaccines are not 100% effective makes it more worthwhile to protect fellow students, teachers, and other school personnel who cannot be immunized for medical reasons. While vaccines may not be 100% safe, there is clear and ample evidence that the risks of vaccinating are much greater than the risks of not vaccinating. Systemic reactions to vaccination are only a fraction of the number of cases of severe disease the vaccines prevent.

Regarding the efficacy rate of chickenpox, the Centers for Disease Control and Prevention (CDC) states that in children between 12 months to 12 years of age, vaccine efficacy is estimated to be 70%-90% against infection, and 85%-95% against severe or moderate disease. ***In field conditions, chickenpox vaccine is 80%-85% effective against infections and more than 95% effective against severe disease.***

Regarding hepatitis B vaccine, the CDC states that there are between 1-1.25 million persons in the United States chronically infected with HBV, and an additional 5,000-8,000 persons still become chronically infected each year. Only 58% of those infections occur in adults, with the remaining number occurring in adolescents, younger children and perinatally.

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 -

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. This rule supersedes the legislative rule, Immunization Criteria for Transfer Students, 64CSR58.

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, or his or her designee.

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.

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

64CSR91

2.6. 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.

2.7. 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 initial 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 12<sup>th</sup> grade (hereinafter K-12), shall show proof 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 4<sup>th</sup> 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 4<sup>th</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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. All students shall show proof that they have received at least one dose of each of the required vaccines in order to be provisionally enrolled in school.

4.4. Provisional enrollment may continue for up to 7 months from school entry. After attending school for 7 months all students shall show proof that they have received all of the required immunizations.

4.5. Children who are delinquent for any required vaccinations, or who have exceeded the 7 month provisional enrollment period, will be considered to be out of compliance with the law and may be required to be temporarily educated in another setting until the appropriate vaccine(s) are received and the records amended. The Bureau shall assist in pursuing legal remedies or penalties against parents who refuse to comply with this rule.

**§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 4<sup>th</sup> birthday;

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

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

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

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 for the first time shall have the following immunizations:

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

8.2.b. POLIO (OPV/IPV): Before admission, three doses, including one dose on or after the 4<sup>th</sup> 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. The physician's request shall state specifically which vaccine or vaccines the child should be exempt from receiving and

an explanation of the medical contraindication relied upon to make the recommendation.

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.

John Grindley  
243 Arborland Road  
Wheeling, WV 26003

July 27, 2006

304-242-6070

John D. Law, WVDHHR  
Ann Spanner - BPH

Diamond Building, Room 702  
350 Capitol Street  
Charleston, WV, 25301

Dear John and Ann,

As you may already know, our family is severely burdened by the current state mandatory vaccination laws. We have been working on legislation that will allow for a non-medical exemption for several years now. Please do not allow Rule Change 64-91 to go forward unless a fair non-medical exemption is added.

Sincerely,



John Grindley

## Background on Vaccine Exemptions In the US

**#1.) 48 states, D.C., and the military allow a religious and/or conscientious exemption from compulsory vaccinations to comply with the 1<sup>st</sup> Amendment (Free exercise of Religion). West Virginia and Mississippi are the only 2 states that do not have such exemptions. Vaccines conflict with some individual's religious and/or conscientious beliefs.**



**#2.) The state will not be put at risk for allowing this exemption!** According to a National Vaccine Advisory Committee report (Jan. 13, 1998-National Vaccine Program Office), there is no statistical relationship between type of exemption and frequency of exemptions or vaccination coverage.

According to The Immunization Safety Review (p.104, IOM 2002), "the availability of exemptions does not appear to be directly related to levels of immunization coverage."

## Background on Vaccine Exemptions in WV

**2003 SB 136**, A religious exemption to vaccination passed the Senate.

**2004 SB 439**, A religious exemption to vaccination passed the Senate.

**2005 SB 523**, The Health Department asked Melissa Adkins, Karen Cross, and John Grindley to stop efforts on adding a religious and conscientious exemption to vaccination. They put in writing, "that an exemption could be added in rules", and that they were "committed to working towards language that would allow for exemptions" (see attached letter). The Health Department's promise is not fulfilled by the end of 2005.

**2006 SB 670**, Senator Foster sponsored a bill, that allowed for a religious and conscientious exemption. Senator Prezioso refused to run the Bill because Martha Walker told him they did not want any exemptions. The Health Department's promise is broken.

**2006 Rule Change 64-91**, The Health Department attempts to have a Rule Change adding more vaccines and leaving out the promised religious and conscientious exemptions. This is an act of 'bad faith'.

## **Proposed Amendment to Interim Rule 64-91**

West Virginia families are being emotionally and physically burdened by the present law!

A fair religious and conscientious exemption needs to be added to the proposed Interim Rule, before any more Mandatory vaccines are added.

The following language would remedy the situation:

Proof of immunization is not required for a child entering school if the parent or guardian of the child entering school submits a signed statement to the county superintendent of schools, or his or her designee, stating that due to religious or conscientious beliefs the parent or guardian does not consent to the immunization of the child entering school.

## Page 104 from the IOM Reports-2002

104

## IMMUNIZATION SAFETY REVIEW

Feudtner and Marcus (2001) also proposed consideration of a broader range of policy options to accommodate a greater degree of autonomy in immunization decisions. The current emphasis on universal immunization recommendations and state mandates may not be appropriate or necessary. The experience of the 15 states that allow philosophic exemptions to required immunization illustrates that the availability of exemptions does not appear to be directly related to levels of immunization coverage. In 2000, although some states that allow philosophic exemptions had some of the lowest immunization rates, other states offering exemptions had some of the highest rates (Marcus, 2001). An alternative approach might allow for a range of priorities (e.g., mandatory, recommended, or elective), based on an evaluation of the immunization objectives and tradeoffs associated with specific vaccines.

Feudtner and Marcus (2001) acknowledged the challenges of reaching consensus regarding immunization policies with their broader approach to these issues, but they argued that more explicit attention to a wider range of conflicting views and values is needed to maintain public trust in immunization and other public health programs.

## Conclusions

The committee's assessment of the significance of concerns about possible immune system dysfunctions as a result of multiple immunizations took several factors into account: the burden of the possible adverse outcomes of autoimmune diseases such as type 1 diabetes and allergic diseases such as asthma; indications of the extent of the concerns about multiple immunizations; and views regarding the framework for immunization policy-making.

Although parents appear to value immunization, a substantial minority believes that multiple immunizations could be harmful. Autoimmune and allergic diseases are common in the United States, after all, and the incidence of these conditions appears to be increasing. As represented by type 1 diabetes and asthma, these conditions are life-threatening if not adequately treated and are associated with substantial health care costs. Given also the prevalence of allergic diseases, specifically asthma, a relatively small increase in risk may lead to a significant public health impact.

A better understanding of parents' perceptions of risk and decision-making may be necessary to prevent decreases in immunization rates and increases in vaccine-preventable disease. Current approaches to immunization policy-making emphasize epidemiological and economic considerations, but may benefit from greater attention to ethical issues, including personal liberty and equity in allocation of the benefits and burdens of immunization. With new vaccines in development and discussions of the wider use of existing vaccines, more flexible approaches to immunization policies—especially regarding priorities—may be needed. Thus, the committee concludes that concerns about multiple



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

Office of the Secretary  
State Capitol Complex, Building S, Room 205  
Charleston, West Virginia 25305  
Telephone: (304) 558-0884 Fax: (304) 558-1130

**Joe Manchin III**  
Governor

**Martha Yeager Walke**  
Secretary

March 31, 2005

The Honorable L. Gil White  
West Virginia House of Delegates  
State Capitol Building, Room 150-R  
Charleston, West Virginia 25305

Dear Delegate White:

Thank you so much for your work in bringing together the Department of Health and Human Resources and those who are interested in an exemption from immunization. On March 23, 2005, the Department of Health and Human Resources asked John Grindley to stop efforts that would allow for a religious and conscientious exemption from immunizations this Legislative session. We stated that an exemption could be added in rules, and that we would work on ironing out the language for additional immunizations, such as those for chicken pox, in rules as well. We are committed to working towards language that would allow for exemptions from immunization in restricted instances.

I will keep you up-to-date on our progress.

Sincerely,

John D. Law  
Assistant Secretary

JDL:jp

cc: John Grindley  
Chris Curtis