

**ADOPTED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R099-07

Effective October 31, 2007

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 392.435 and 439.200; §2, NRS 394.192 and 439.200; §§3-7, NRS 432A.230 and 439.200; §8, NRS 441A.120.

A REGULATION relating to communicable diseases; requiring pupils enrolled in public and private schools in this State to be immunized against Bordetella pertussis; requiring certain children enrolled in child care facilities in this State to be immunized against hepatitis A, hepatitis B, varicella and streptococcus pneumoniae; requiring certain persons who reside in on-campus housing at certain universities in this State to be immunized against Neisseria meningitidis; providing exceptions; and providing other matters properly relating thereto.

Section 1. NAC 392.105 is hereby amended to read as follows:

392.105 1. The State Board of Health hereby declares the diseases of ~~[mumps, hepatitis A, hepatitis B and varicella]~~ :

- (a) Mumps;*
- (b) Hepatitis A;*
- (c) Hepatitis B;*
- (d) Varicella; and*
- (e) Bordetella pertussis if a child is 6 years of age or older,*

↳ to be communicable diseases.

2. Unless excused because of religious belief or medical condition, a child may not be enrolled in a public school in this State unless he has been immunized against the mumps.

3. Except as otherwise provided in subsection ~~[4.]~~ 5, unless excused because of religious belief or medical condition, a child may not be enrolled in a public school in this State:

(a) After June 30, 2002, unless he has been immunized against hepatitis A and hepatitis B;
and

(b) After June 30, 2003, unless he has been immunized against varicella.

4. *Unless excused because of religious belief or medical condition, a child may not be enrolled in grade 7 in a public school in this State after June 30, 2008, unless the child has been immunized against Bordetella pertussis. To satisfy the requirements of this subsection, a child must receive at least one dose of a vaccine against Bordetella pertussis after he obtained 10 years of age.*

5. The provisions of:

(a) Paragraph (a) of subsection 3 do not apply to a child who is enrolled in a public school in this State before July 1, 2002; and

(b) Paragraph (b) of subsection 3 do not apply to a child who is enrolled in a public school in this State before July 1, 2003.

Sec. 2. NAC 394.190 is hereby amended to read as follows:

394.190 1. The State Board of Health hereby declares the diseases of ~~[mumps, hepatitis A, hepatitis B and varicella]~~ :

(a) *Mumps;*

(b) *Hepatitis A;*

(c) *Hepatitis B;*

(d) *Varicella; and*

(e) *Bordetella pertussis if a child is 6 years of age or older,*

↳ to be communicable diseases.

2. Unless excused because of religious belief or medical condition, a child may not be enrolled in a private school in this State unless he has been immunized against the mumps.

3. Except as otherwise provided in subsection ~~[4.]~~ 5, unless excused because of religious belief or medical condition, a child may not be enrolled in a private school in this State:

(a) After June 30, 2002, unless he has been immunized against hepatitis A and hepatitis B;
and

(b) After June 30, 2003, unless he has been immunized against varicella.

4. *Unless excused because of religious belief or medical condition, a child may not be enrolled in grade 7 in a private school in this State after June 30, 2008, unless the child has been immunized against Bordetella pertussis. To satisfy the requirements of this subsection, a child must receive at least one dose of a vaccine against Bordetella pertussis after he obtained 10 years of age.*

5. The provisions of:

(a) Paragraph (a) of subsection 3 do not apply to a child who is enrolled in a private school in this State before July 1, 2002; and

(b) Paragraph (b) of subsection 3 do not apply to a child who is enrolled in a private school in this State before July 1, 2003.

Sec. 3. Chapter 432A of NAC is hereby amended by adding thereto the provisions set forth as sections 4 to 7, inclusive, of this regulation.

Sec. 4. 1. *The State Board of Health hereby declares infection with hepatitis A to be a communicable disease.*

2. Unless excused because of religious belief or medical condition, a child may not be enrolled in a child care facility in this State unless he has been immunized against hepatitis A.

Sec. 5. *1. The State Board of Health hereby declares infection with hepatitis B to be a communicable disease.*

2. Unless excused because of religious belief or medical condition, a child may not be enrolled in a child care facility in this State unless he has been immunized against hepatitis B.

Sec. 6. *1. The State Board of Health hereby declares infection with varicella to be a communicable disease.*

2. Unless excused because of religious belief or medical condition, a child may not be enrolled in a child care facility in this State unless he has been immunized against varicella.

Sec. 7. *1. The State Board of Health hereby declares infection with streptococcus pneumoniae to be a communicable disease.*

2. Unless excused because of religious belief or medical condition, a child may not be enrolled in a child care facility in this State unless he has been immunized against streptococcus pneumoniae.

Sec. 8. NAC 441A.755 is hereby amended to read as follows:

441A.755 *1. Except as otherwise provided in subsection ~~9~~ 10 or unless excused because of religious belief or medical condition, a person shall not attend a university until he submits to the university proof of immunity to tetanus, diphtheria, measles, mumps, rubella and any other disease specified by the State Board of Health. The Division shall establish the immunization schedule required for admission of the student.*

2. Except as otherwise provided in subsection 10 or unless excused because of religious belief or medical condition, a person who:

(a) Is less than 23 years of age; and

(b) Is enrolled as a freshman;

*↪ shall not reside in on-campus housing after September 1, 2008, until he submits to the university proof of immunity to *Neisseria meningitidis*.*

3. A student may enroll in the university conditionally if the student, or if the student is a minor, the parent or legal guardian of the student, submits a record of immunization stating that the student is in the process of obtaining the required immunizations, and that record shows that the student has made satisfactory progress toward obtaining those immunizations.

~~{3.}~~ 4. The university shall retain the proof of immunity on a computerized record or on a form provided by the Division.

~~{4.}~~ 5. The university shall not refuse to enroll a student because he has not been immunized if the student, or if the student is a minor, the parent or legal guardian of the student, has submitted to the university a written statement indicating that his religious belief prohibits immunizations. The university shall keep the statement on file.

~~{5.}~~ 6. If the medical condition of a student does not permit him to be immunized to the extent required, the student, or if the student is a minor, the parent or legal guardian of the student, must submit to the university a statement of that fact written by a licensed physician.

The university shall keep the statement on file.

~~{6.}~~ 7. If additional requirements of immunity are imposed by law after a student has been enrolled in the university, the student, or if the student is a minor, the parent or legal guardian of the student, shall submit an additional proof of immunity to the university stating that the student has met the new requirements of immunity.

~~{7.}~~ 8. If the health authority determines that, at the university, there is a case having a communicable disease against which immunity is required for admission to the university, and a student who has not submitted proof of immunity to that disease is attending that university, the president of the university shall require that:

(a) The student be immunized; or

(b) The student be excluded from the university until allowed to return by the health authority.

~~{8.}~~ 9. A student shall not attend a university from which he is excluded until allowed to return by the health authority. The parent or legal guardian of a student, if the student is a minor, shall not allow the student to attend a university from which he is excluded until allowed to return by the health authority.

~~{9.}~~ 10. Any student who is enrolled in a program of distance education and who does not attend a class on campus is exempt from the requirements of this section.

~~{10.}~~ 11. As used in this section:

(a) “On-campus housing” means a dormitory or other student residence that is owned, operated by or located on the campus of a university.

(b) “Postsecondary educational institution” has the meaning ascribed to it in NRS 394.099.

(c) “University” means any university within the Nevada System of Higher Education or any private postsecondary educational institution that provides on-campus housing.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R099-07**

The State Board of Health adopted regulations assigned LCB File No. R099-07 which pertain to chapters 392, 394, 432A and 441A of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested parties may obtain a copy of the summary.

Letters were sent to all entities that the Bureau of Community Health (BCH) could identify as possibly being affected by the regulations as well as local health authorities advising them of proposed changes in immunization requirements. The entities that were identified were childcare facilities throughout the state, all public and private schools and all universities/community colleges. These entities were provided with a copy of the proposed regulations as well as the Notice of Public Workshop and Notice of Public Hearing.

Copies of the proposed amendments were posted at the Health Division's web site. Notices were published in Northern and Southern Nevada newspapers in August 2007 (Notice of Public Workshop) and in September 2007 (Notice of Public Hearing). In addition, the proposed regulations were posted at public libraries and at the State Library. Public workshops were held on August 20, 22, and 23, 2007 in Las Vegas, Elko, and Reno (respectively). Copies of proposed amendments have been provided to those individuals and businesses, which have requested direct service.

Several faxed responses and numerous phone calls provided initial general responses to the small business questionnaires. In general, most responders indicated that an increase in paperwork and recordkeeping would result from the new immunization requirements.

Interested persons may obtain a list of the recipients and a summary of written responses to the solicited comments by contacting Tami Chartraw, Immunization Registry Manager, Immunization Program, BCH, 4150 Technology Way, Suite 150, Carson City, NV 89706 or by calling 775-684-4032.

- 2. The number of persons who:**
- (a) Attended the hearing;**
 - (b) Testified at each hearing;**
 - (c) Submitted to the agency written comments.**

On October 19, 2007, the State Board of Health meeting was held in Las Vegas and via videoconference to Carson City.

- a. A total of 58 members of the public attended the hearing.
- b. A total of seven (7) members of the public testified at the hearing regarding the proposed regulations.
- c. A total of 12 written comments were received and included in the board packet.

3. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from businesses and the general public as indicated in the response to Question 1, so the response to this requirement is the same.

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Based on input from representatives from Nevada System of Higher Education the proposed regulations were changed to align with Centers for Disease Control and Prevention (CDC) and American College Health Association recommendations. The proposed changes limited to those individuals required to provide proof of immunity to meningococcal disease to incoming freshman less than 23 years of age who will reside on campus.

5. **The estimated economic effect of the regulation on the business, which it is to regulate, and on the public. These must be stated separately, and in each case must include:**
 - (a) **Both adverse and beneficial effects; and**
 - (b) **Both immediate and long-term effects.**

Anticipated effects on the business which NAC 392 and 394 regulates:

- A1. Adverse: None.
- A2. Beneficial: Protection against Bordetella pertussis in the public school population.
- B. Immediate and Long-Term: None

NAC 392 and 394 - Anticipated effects on the public:

- A1. Adverse: Cost of additional vaccination in order to comply with requirement.
- A2. Beneficial: Protection against Bordetella pertussis in the public school population.
- B. Immediate and Long-Term: None

Anticipated effects on the business which NAC 432A regulates:

- A1. Adverse: Increased recordkeeping requirements.
- A2. Beneficial: Protection against Hepatitis A, Hepatitis B, Varicella and Streptococcus pneumoniae in children enrolled in childcare facilities.
- B. Immediate and Long-Term: None

NAC 432A - Anticipated effects on the public:

- A1. Adverse: Cost of additional vaccinations in order to comply with requirement.
- A2. Beneficial: Protection against Hepatitis A, Hepatitis B, Varicella and Streptococcus pneumoniae in children enrolled in childcare facilities.
- B. Immediate and Long-Term: None

Anticipated effects on the business which NAC 441A regulates:

- A1. Adverse: None.
- A2. Beneficial: Protection against Neisseria meningitides in the university population.
- B. Immediate and Long-Term: None

NAC 441A - Anticipated effects on the public:

- A1. Adverse: Cost of additional vaccination in order to comply with requirement.
- A2. Beneficial: Protection against Neisseria meningitides in the university population.
- B. Immediate and Long-Term: None

6. The estimated cost to the agency for the enforcement of the proposed regulation.

The estimated cost to the agency for enforcement of the proposed regulation is minimal and will be handled through the existing administrative process.

7. A description of any regulations of other state or government agencies, which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, name the regulating federal agency.

The proposed regulations do not overlap or duplicate any other Nevada state regulations.

8. The regulation includes provisions, which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The proposed regulations do not duplicate federal regulations.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The amendments do not establish any new fees or increase any existing fees.