

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

LCB File No. R052-16

Effective November 2, 2016

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, NRS 441A.120.

A REGULATION relating to communicable diseases; prohibiting a child from being enrolled in grade 7 in a public or private school unless the child has been immunized against *Neisseria meningitidis* after he or she obtained 10 years of age; prohibiting certain persons from attending a university until the person submits to the university proof of immunity to *Neisseria meningitidis*; providing exceptions to such prohibitions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Health to adopt regulations to define and control dangerous communicable diseases. (NRS 439.200)

Existing law generally requires that a child be immunized against certain diseases, including, without limitation, such diseases as the Board or the local board of health may determine, before enrollment in a public or private school. (NRS 392.435, 394.192)

Existing regulations categorize certain diseases as communicable diseases and set forth requirements concerning a child's immunization against such diseases for the purpose of enrollment in a public or private school. (NAC 392.105, 394.250) **Sections 1 and 2** of this regulation categorize *Neisseria meningitidis* as a communicable disease and provide that a child may not be enrolled in grade 7 in a public or private school, respectively, after June 30, 2017, unless the child has been immunized against *Neisseria meningitidis* after he or she obtained 10 years of age. **Sections 1 and 2** further provide that such a requirement does not apply to a child who is excused because of religious belief or medical condition or who is enrolled in a public or private school, respectively, before July 1, 2009.

Existing law requires the Board to adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational, medical and correctional institutions. (NRS 441A.120)

Existing regulations prohibit, with certain exceptions, a person who is less than 23 years of age and is enrolled as a freshman at a university from residing in on-campus housing after

September 1, 2008, until he or she submits to the university proof of immunity to *Neisseria meningitidis*. (NAC 441A.755) **Section 3** of this regulation instead prohibits such a person from attending a university until he or she submits proof to the university of such immunity. **Section 3** also requires the Division of Public and Behavioral Health of the Department of Health and Human Services to establish the immunization schedule required for the admission of such a person.

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:

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

↳ 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 the child has been immunized against the mumps.

3. Except as otherwise provided in subsection ~~5~~ 6, 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 the child has been immunized against hepatitis A and hepatitis B; and

(b) After June 30, 2003, unless the child 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 or she obtained 10 years of age.

5. *Except as otherwise provided in subsection 6, 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, 2017, unless the child has been immunized against Neisseria meningitidis after he or she obtained 10 years of age.*

6. 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.

(c) Subsection 5 do not apply to a child who is enrolled in a public school in this State before July 1, 2009.

Sec. 2. NAC 394.250 is hereby amended to read as follows:

394.250 1. The State Board of Health hereby declares the diseases of:

(a) Mumps;

(b) Hepatitis A;

(c) Hepatitis B;

(d) Varicella; ~~and{~~

(e) Bordetella pertussis if a child is 6 years of age or older ~~}; and~~

(f) Neisseria meningitidis,

↳ 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 the child has been immunized against the mumps.

3. Except as otherwise provided in subsection ~~5~~ 6, 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 the child has been immunized against hepatitis A and hepatitis B; and

(b) After June 30, 2003, unless the child 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 or she obtained 10 years of age.

5. *Except as otherwise provided in subsection 6, 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, 2017, unless the child has been immunized against Neisseria meningitidis after he or she obtained 10 years of age.*

6. 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.

(c) Subsection 5 do not apply to a child who is enrolled in a private school in this State before July 1, 2009.

Sec. 3. NAC 441A.755 is hereby amended to read as follows:

441A.755 1. Except as otherwise provided in subsection 10 or unless excused because of religious belief or medical condition, a person shall not attend a university until he or she 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,~~ *attend a university* until he or she submits to the university proof of immunity to *Neisseria meningitidis*. *The Division shall establish the immunization schedule required for admission of the student.*

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.

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

5. The university shall not refuse to enroll a student because he or she 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 or her religious belief prohibits immunizations. The university shall keep the statement on file.

6. If the medical condition of a student does not permit him or her 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.

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.

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.

9. A student shall not attend a university from which he or she 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 or she is excluded until allowed to return by the health authority.

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.

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.

~~{(e)}~~ **(b)** “University” means any university within the Nevada System of Higher Education or any private postsecondary educational institution . ~~{that provides on-campus housing.}~~

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

September 14, 2016

LCB File No. R052-16

Informational Statement per NRS 233B.066

1. A clear and concise description of the need for the adopted regulation.

The purpose of the proposed amendments to NAC 392.105, 394.250 and 441A.755 is to add immunization against *Neisseria meningitidis* (e.g., meningococcal disease or meningitis) as a requirement for 7th grade public and private school enrollment in Nevada. As meningitis is a serious communicable disease among adolescents, it is important Nevada students receive age-appropriate protection through vaccination prior to entering school. A 7th grade entry requirement is consistent with Centers for Disease Control and Prevention (CDC) dosing recommendations at 11-12 years. An amendment will also change the college immunization requirements for *N. meningitidis* to remove the “on-campus housing” stipulation. All college students have a greater risk for encountering and contracting meningococcal disease than the general population, regardless of their housing situation; therefore, all incoming college students should receive age-appropriate meningococcal vaccination prior to attendance.

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

On May 9, 2016 a Small Business Impact Questionnaire, along with a copy of the proposed regulation changes, was sent to each public school district, private school and university statewide. Of the nine (9) responses received, seven (7) had no comment to any adverse or beneficial impact. One respondent indicated an adverse economic effect upon their business; they estimate they may lose tuition for up to two students due to the new requirement. Another respondent indicated an adverse economic effect due to additional staffing costs to comply with screening student records, as well as their personal belief that vaccines are not advisable. The Division of Public and Behavioral Health used methods to reduce the impact of proposed regulations on small business including discussions with stakeholders, parent and provider focus groups, and distribution of the small business impact questionnaire to gather input from stakeholders on how the proposed regulation(s) may impact their business. No modifications to the proposed regulations have been made as a result of this input. The Division has determined any adverse impact upon small businesses would be negligible to non-existent.

One public workshop was held on the proposed regulations on June 30, 2016 at the Division of Public and Behavioral Health located at 4150 Technology Way, Hearing Room 303, Carson City; video conferenced to the Desert Meadow Area Health Education Center in Las Vegas at 3050 E. Flamingo Rd.; and a teleconference line was available for all other commenters. One verbal statement of support was received during the public workshop, and

three letters of support were received via e-mail prior to the workshop. No opposition was received during the public workshop, either verbally or in writing. No recommendations for language changes were received during the public workshop or in writing. Interested parties may obtain copies of the Small Business Impact Statement and/or the Public Workshop minutes by contacting Virginia Lee, Immunization Program Administrative Assistant at (775) 684-5900 or vlee@health.nv.gov; or they can be downloaded from the Immunization Program website at http://dpbh.nv.gov/Programs/SIP/dta/School_Requirements/School_Requirements/.

A summary of the hearing for amendment of Nevada Administrative Code (NAC) 392.105, 394.250 and 441A.755, LCB File #No. R052-16 and errata, can be obtained by contacting the State Board of Health, through the Division of Public and Behavioral Health, 4150 Technology Way, Suite 300, Carson City, Nevada 89706, phone: (775) 684-4200, fax: (775) 684-4211.

- 3. The number of persons who: (1) attended each hearing; (2) testified at each hearing; and (3) submitted to the agency written statements. For each person identified in (2) and (3), the following information if provided to the agency conducting the hearing: name, telephone number, business address, business telephone, e-mail address and name of entity/organization represented.**

For a detailed list of attendees at the Public Workshop, please see the attached sign-in sheet and workshop minutes. Workshop minutes can also be viewed online at the following website: http://dpbh.nv.gov/Programs/SIP/dta/School_Requirements/School_Requirements/. Four (4) organizations submitted written letters of support: Washoe County Health District, Immunize Nevada, GlaxoSmithKline, and the Nevada Statewide Maternal and Child Health (MCH) Coalition.

- 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.**

No written opposition was submitted. After consideration of public comment, the regulation was adopted without changing any of the proposed language. No changes to language were recommended by any stakeholder group and no public opposition was heard regarding the language. Therefore, the Division recommends adopting the proposed regulation amendment as presented in LCB File No. R052-16.

- 5. The estimated economic effect of the regulation on (the business which it is to regulate) schools and universities:**

- a. The beneficial effect of these regulations is to reduce vaccine-preventable morbidity and mortality in school-age and college-age populations. The adverse effects for businesses include additional staff time to check for the newly required immunization and possible increased record-keeping requirements for the State's two Universities. The adverse effects are expected to be minimal, as student records are currently being assessed and stored at Nevada primary schools and within the Universities for all other required immunizations.
- b. The regulation will not go into effect immediately. The proposed vaccine addition would become compulsory for school entry beginning with the 2017 school year. The immediate effect would be mass communication and education for school/university

nurses and registrars as well as to prepare healthcare providers. The long term effect will be sustained increases in vaccine coverage for the meningococcal conjugate vaccine for the most at-risk age groups in Nevada.

6. The estimated economic effect of the regulation on the public:

- a. The beneficial effect of these regulations is to reduce vaccine-preventable morbidity and mortality in school-age and college-age populations. The adverse effects for the public may include delayed enrollment into school in order for the child to receive the newly required vaccine. However, this adverse effect should be mitigated by early public education campaigns.
- b. The immediate effect would be mass communication and education to parents of those students that would be entering 7th grade in Fall 2017. The long term effect will be sustained increases in vaccine coverage for the meningococcal conjugate vaccine for the most at-risk age groups in Nevada.

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

There is no estimated cost to the agency for enforcement of the proposed regulation.

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

The proposed regulation amendment does not include provisions which are more stringent than existing federal regulations. The proposed regulation amendment also does not represent duplication of any local, State or Federal standards.

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.

There is no fee or increased fee associated with the proposed regulation.