

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R046-20

May 14, 2020

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

AUTHORITY: §§1-17, NRS 439.200 and 441A.120.

A REGULATION relating to public health; requiring the submission of certain forms relating to immunization exemptions; authorizing an audit of medical exemptions from immunization in certain circumstances; requiring a child to receive certain immunizations to enroll in school or be admitted to a child care facility or accommodation facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides broad authority to the State Board of Health to adopt regulations relating to public health, including controlling communicable diseases. (NRS 439.200, 441A.120) Existing law requires children and students to receive various immunizations in order to enroll in school or child care facilities or to be admitted to accommodation facilities. (NRS 392.435, 394.192, 432A.230, 432A.235; NAC 441A.755) Existing law provides an exemption to immunization requirements for religious beliefs and medical conditions if a written statement provided to the appropriate school or facility indicates such religious belief or medical condition. (NRS 392.437, 392.439, 394.193, 394.194, 432A.240, 432A.250; NAC 441A.755)

Section 2 of this regulation requires that a written statement indicating that the religious beliefs of the parents or guardian of a child prohibit immunization be submitted to the school district or charter school: (1) annually according to the enrollment schedule of the school; and (2) on a form provided by the Division of Public and Behavioral Health of the Department of Health and Human Services. **Sections 7, 13 and 16** of this regulation impose similar requirements for children enrolled in private schools, children admitted to child care facilities and accommodation facilities and students admitted to attend a university, respectively. **Section 3** of this regulation requires that a written statement indicating that the medical condition of a child prohibits immunization be submitted to the school district or charter school on a form provided by the Division. **Sections 8, 14 and 16** of this regulation impose similar requirements for children enrolled in private schools, children admitted to child care facilities and accommodation facilities and students admitted to attend a university, respectively. **Section 4** of this regulation authorizes a local health officer to audit medical exemptions granted by a public school in certain circumstances. **Sections 9 and 15** of this regulation also authorize an audit of medical

exemptions granted by a private school or child care facility or accommodation facility, respectively, in certain circumstances.

Existing regulations list the communicable diseases which a child must be immunized against before attending a public or private school. (NAC 392.105 and 394.250) **Sections 5 and 11** of this regulation prohibit a child from enrolling in grade 12 in a public or private school, respectively, after June 30, 2022, unless the child has received a booster dose for *Neisseria meningitidis* after reaching 16 years of age.

Section 1. Chapter 392 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *The written statement required pursuant to NRS 392.437 must be submitted to the board of trustees of a school district or the governing body of a charter school in which a child who has not been immunized pursuant to NRS 392.435 has been accepted for enrollment:*

- 1. Annually according to the annual enrollment schedule of the school district or charter school; and*
- 2. On a form provided by the Division of Public and Behavioral Health of the Department of Health and Human Services.*

Sec. 3. *The written statement required pursuant to NRS 392.439 must be submitted to the board of trustees of a school district or governing body of a charter school in which a child who has a medical condition that will not permit the child to be immunized to the extent required by NRS 392.435 has been accepted for enrollment on a form provided by the Division of Public and Behavioral Health of the Department of Health and Human Services.*

Sec. 4. *A local health officer may conduct an audit of medical exemptions granted pursuant to NRS 392.439 in the jurisdiction of the local health officer if:*

- 1. The reported immunization rate of a school falls below 95 percent;*
- 2. A school fails to report immunization data annually pursuant to NRS 392.435;*

3. The rate of medical exemptions of a school is higher than the average rate of medical exemptions granted by public schools in this State, as determined by the Division of Public and Behavioral Health of the Department of Health and Human Services or from data available from the National Immunization Survey conducted by the Centers for Disease Control and Prevention, or if such a survey or organization ceases to exist, an equivalent federal source; or

4. The local health officer determines such an audit is necessary to protect public health on a case-by-case basis.

Sec. 5. 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;
- (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 public school in this State unless the child has been immunized against the mumps.

3. Except as otherwise provided in subsection ~~6~~ 7, 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 ~~6.1~~ 7, 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. *Unless excused because of religious belief or medical condition, a child may not be enrolled in grade 12 in a public school in this State after June 30, 2022, unless the child has received at least one booster dose of a vaccine protecting against Neisseria meningitidis after he or she obtained 16 years of age.*

7. 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.

(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. 6. Chapter 394 of NAC is hereby amended by adding thereto the provisions set forth as sections 7, 8 and 9 of this regulation.

Sec. 7. *The written statement required pursuant to NRS 394.193 must be submitted to the governing body of a private school in which a child who has not been immunized pursuant to NRS 394.192 has been accepted for enrollment:*

- 1. Annually according to the annual enrollment schedule of the private school; and*
- 2. On a form provided by the Division of Public and Behavioral Health of the Department of Health and Human Services.*

Sec. 8. *The written statement required pursuant to NRS 394.194 must be submitted to the governing body of a private school in which a child who has a medical condition that will not permit the child to be immunized to the extent required by NRS 394.192 has been accepted for enrollment on a form provided by the Division of Public and Behavioral Health of the Department of Health and Human Services.*

Sec. 9. *A local health officer may conduct an audit of medical exemptions granted pursuant to NRS 394.194 in the jurisdiction of the local health officer if:*

- 1. The reported immunization rate of a private school falls below 95 percent;*
- 2. A private school fails to report immunization data annually pursuant to NRS 394.192;*
- 3. The rate of medical exemptions of a private school is higher than the average rate of medical exemptions granted by public schools in this State, as determined by the Division of Public and Behavioral Health of the Department of Health and Human Services or from data available from the National Immunization Survey conducted by the Centers for Disease Control and Prevention, or if such a survey or organization ceases to exist, an equivalent federal source; or*
- 4. The local health officer determines such an audit is necessary to protect public health on a case-by-case basis.*

Sec. 10. NAC 394.025 is hereby amended to read as follows:

394.025 1. An applicant that is not accredited by AdvancED or its successor organization, or any affiliate thereof, shall comply with the provisions of NAC 394.020, 394.030 to 394.180, inclusive, and 394.250 ~~†~~ *and sections 7, 8 and 9 of this regulation.*

2. An applicant that is accredited by AdvancED or its successor organization, or any affiliate thereof, shall comply with the provisions of NAC 394.020 and 394.200 to 394.250, inclusive ~~†~~, *and sections 7, 8 and 9 of this regulation.*

Sec. 11. 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;
- (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 ~~†6.†~~ **7**, 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~~ 7, 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. *Unless excused because of religious belief or medical condition, a child may not be enrolled in grade 12 in a private school in this State after June 30, 2022, unless the child has received at least one booster dose of a vaccine protecting against Neisseria meningitidis after he or she obtained 16 years of age.*

7. 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.

(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. 12. Chapter 432A of NAC is hereby amended by adding thereto the provisions set forth as sections 13, 14 and 15 of this regulation.

Sec. 13. The written statement required pursuant to NRS 432A.240 must be submitted to the operator of a child care facility or accommodation facility in which a child who has not been immunized pursuant to NRS 432A.230 or 432A.235, respectively, has been admitted:

- 1. According to the renewal schedule of the child care facility or accommodation facility, as applicable, or at least annually, whichever is more frequent; and*
- 2. On a form provided by the Division.*

Sec. 14. The written statement required pursuant to NRS 432A.250 must be submitted to the operator of a child care facility or accommodation facility in which a child who has a medical condition that will not permit the child to be immunized to the extent required by NRS 432A.230 or 432A.235, respectively, has been admitted on a form provided by the Division.

Sec. 15. A local health officer may conduct an audit of medical exemptions filed pursuant to NRS 432A.250 in the jurisdiction of the local health officer if:

- 1. The reported immunization rate of a child care facility or an accommodation facility falls below 95 percent;*
- 2. A child care facility or an accommodation facility fails to report immunization data annually as required by NRS 432A.230 or 432A.235, as applicable;*
- 3. The rate of medical exemptions of a child care facility or accommodation facility is higher than the average rate of medical exemptions granted by the child care facilities or accommodation facilities in this State, as applicable, as determined by the Division or from data available from the National Immunization Survey conducted by the Centers for Disease Control and Prevention, or if such a survey or organization ceases to exist, an equivalent federal source; or*

4. The local health officer determines such an audit is necessary to protect public health on a case-by-case basis.

Sec. 16. 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 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. *A statement submitted pursuant to this subsection must be submitted to the university:*

(a) Annually according to the registration schedule of the university for the duration of the enrollment of the student at the university; and

(b) On a form provided by the Division.

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. *A statement submitted pursuant to this subsection must be submitted to the university on a form provided by the Division.*

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

(b) “University” means any university within the Nevada System of Higher Education or any private postsecondary educational institution.

Sec. 17. 1. This section and sections 5 and 11 of this regulation become effective upon filing with the Secretary of State.

2. Sections 1 to 4, inclusive, 6 to 10, inclusive and 12 to 16, inclusive, of this regulation become effective July 1, 2021.