

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

LCB File No. R069-21

December 9, 2021

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

AUTHORITY: §§ 1-5, NRS 439.200 and 441A.120.

A REGULATION relating to immunizations; revising requirements governing the immunization of students at postsecondary educational institutions; prohibiting requests for a variance from such requirements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Health to adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational institutions. (NRS 441A.120) Existing regulations prohibit, with certain exceptions, a person from attending a university until he or she submits to the university proof of immunity to certain communicable diseases. (NAC 441A.755) **Section 4** of this regulation makes this requirement applicable to state colleges and community colleges on July 1, 2024. **Section 3** of this regulation prohibits a person from attending a postsecondary educational institution until he or she submits proof of immunity to COVID-19, effective upon the submission of this regulation to the Secretary of State.

Existing regulations require the Division of Public and Behavioral Health of the Department of Health and Human Services to establish the required immunization schedule for the admission of a student. (NAC 441A.755) **Section 3** removes that requirement. Instead, **section 2** of this regulation adopts by reference certain publications of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, and **section 3** requires the proof of immunity submitted by a student to demonstrate that the student has acquired immunity in accordance with those publications.

Existing regulations exempt any student who is enrolled in a program of distance education and who does not attend a class on campus from immunization requirements. (NAC 441A.755) **Section 3** requires a student who does not attend class on campus but attends a club, sport or other extracurricular activity on campus to demonstrate the required immunity.

Existing regulations authorize certain persons to apply for a variance from a regulation of the State Board of Health. (NAC 439.200-439.280) **Sections 1 and 3** of this regulation provide that any person who is required to submit proof of immunity to certain communicable diseases to attend a postsecondary educational institution is ineligible to request a variance from a regulation of the Board relating to that requirement.

Section 1. NAC 439.200 is hereby amended to read as follows:

439.200 1. ~~{Any}~~ *Except as otherwise provided in NAC 441A.755, any* person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgment of a substantial property right may apply for a variance from the regulation.

2. An application for such a variance must be made to the State Board of Health unless the regulation is enforced by a district board of health, in which case the application must be made to the appropriate district board.

Sec. 2. NAC 441A.200 is hereby amended to read as follows:

441A.200 1. Except as otherwise provided in subsection 2, the following recommendations, guidelines and publications are adopted by reference:

(a) The standard precautions to prevent transmission of disease by contact with blood or other body fluids as recommended by the Centers for Disease Control and Prevention in “Perspectives in Disease Prevention and Health Promotion Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings,” *Morbidity and Mortality Weekly Report* [37(24):377-388, June 24, 1988], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(b) The Centers for Disease Control and Prevention’s *2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings*, published by the United States Department of Health and Human Services and available at no cost on the Internet at ~~<https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines.pdf>~~

<http://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf>, or, if that Internet website ceases to exist, from the Division.

(c) The recommended guidelines for the investigation, prevention, suppression and control of communicable disease set forth by the Centers for Disease Control and Prevention in:

(1) “General Recommendations on Immunization: Recommendations of the Advisory Committee on Immunization Practices,” *Morbidity and Mortality Weekly Report* [55(RR15):1-48, December 1, 2006], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division; and

(2) *Manual for the Surveillance of Vaccine-Preventable Diseases*, 4th edition, published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/vaccines/pubs/surv-manual/index.html>, or, if that Internet website ceases to exist, from the Division.

(d) The recommended guidelines for the investigation, prevention, suppression and control of communicable diseases contained in *Control of Communicable Diseases Manual*, 20th edition, published by the American Public Health Association and available for the price of ~~138.50~~ \$49 for members and ~~55.00~~ \$70 for nonmembers from the American Public Health Association, 800 I Street, N.W., Washington, D.C. 20001-3710, or at the Internet address <http://www.apha.org>.

(e) The recommended guidelines for the investigation, prevention, suppression and control of communicable diseases contained in *Red Book: 2015 Report of the Committee on Infectious Diseases*, 30th edition, published by the American Academy of Pediatrics and available for the price of ~~75.00~~ \$119.95 for members and ~~149.95~~ \$149.95 for nonmembers from the

American Academy of Pediatrics, ~~{141 Northwest Point}~~ **345 Park** Boulevard, ~~{Elk Grove Village,}~~ **Itasca**, Illinois ~~{60007,}~~ **60143**, or at the Internet address ~~{http://www.aap.org-}~~ <https://shop.aap.org>.

(f) The recommendations for the testing, treatment, prevention, suppression and control of chancroid, *Chlamydia trachomatis*, gonococcal infection, granuloma inguinale, lymphogranuloma venereum and infectious syphilis as are specified in “Sexually Transmitted Diseases Treatment Guidelines, 2006,” *Morbidity and Mortality Weekly Report* [55(RR11):1-94, August 4, 2006], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(g) The recommendations for the counseling of and effective treatment for a person having active tuberculosis or tuberculosis infection as set forth in:

(1) “Controlling Tuberculosis in the United States: Recommendations from the American Thoracic Society, CDC, and the Infectious Diseases Society of America,” *Morbidity and Mortality Weekly Report* [54(RR12):1-81, November 4, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division;

(2) “Treatment of Tuberculosis,” *Morbidity and Mortality Weekly Report* [52(RR11):1-77, June 20, 2003], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division;

(3) “Targeted Tuberculin Testing and Treatment of Latent Tuberculosis Infection,” *Morbidity and Mortality Weekly Report* [49(RR06):1-54, June 9, 2000], published by the United

States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division;

(4) The recommendations of the Centers for Disease Control and Prevention for preventing and controlling tuberculosis in correctional and detention facilities set forth in “Prevention and Control of Tuberculosis in Correctional and Detention Facilities: Recommendations from CDC,” *Morbidity and Mortality Weekly Report* [55(RR9):1-44, July 7, 2006], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division; and

(5) “Guidelines for the Investigation of Contacts of Persons with Infectious Tuberculosis: Recommendations from the National Tuberculosis Controllers Association and CDC,” *Morbidity and Mortality Weekly Report* [54(RR15):1-37, December 16, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(h) The recommendations of the Centers for Disease Control and Prevention for preventing the transmission of tuberculosis in facilities providing health care set forth in “Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005,” *Morbidity and Mortality Weekly Report* [54(RR17):1-141, December 30, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(i) “Case Definitions for Infectious Conditions Under Public Health Surveillance,” *Morbidity and Mortality Weekly Report* [46(RR10):1-55, May 2, 1997], published by the United States

Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(j) “Recommended Antimicrobial Agents for Treatment and Postexposure Prophylaxis of Pertussis: 2005 CDC Guidelines,” *Morbidity and Mortality Weekly Report* [54(RR14):1-16, December 9, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(k) “Updated Recommendations for Isolation of Persons with Mumps,” *Morbidity and Mortality Weekly Report* [57(40):1103-1105, October 10, 2008], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(l) “Recommendations for Partner Services Programs for HIV Infection, Syphilis, Gonorrhea, and Chlamydial Infection,” *Morbidity and Mortality Weekly Report* [57(RR09):1-83, November 7, 2008], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(m) “Facility Guidance for Control of Carbapenem-resistant Enterobacteriaceae (CRE),” published by the United States Department of Health and Human Services and available at no cost from the Centers for Disease Control and Prevention of the United States Department of Health and Human Services on the Internet at <https://www.cdc.gov/hai/organisms/cre/cre-toolkit/index.html>, or, if that Internet website ceases to exist, from the Division.

(n) “Interim guidance for a Health Response to Contain Novel or Targeted Multidrug-resistant Organisms (MRDOs),” published by the United States Department of Health and

Human Services and available at no cost from the Centers for Disease Control and Prevention of the United States Department of Health and Human Services on the Internet at

~~<https://www.cdc.gov/hai/outbreaks/docs/Health-Response-Contain-MDRO.pdf>~~,

<https://www.cdc.gov/hai/pdfs/containment/Health-Response-Contain-MDRO-H.pdf>, or, if that

Internet website ceases to exist, from the Division.

(o) The guidelines for the prevention, postexposure management and control of rabies as specified in the “Compendium of Animal Rabies Prevention and Control, 2016,” published by the National Association of State Public Health Veterinarians and available at no cost on the Internet at <http://nasphv.org/documentsCompendiaRabies.html>, or, if that Internet website ceases to exist, from the Division.

(p) “Carbapenemase Producing Carbapenem-Resistant Enterobacteriaceae (CP-CRE) 2018 Case Definition,” published by the United States Department of Health and Human Services and available at no cost on the Internet at ~~<https://www.cdc.gov/nndss/conditions/carbapenemase-producing-carbapenem-resistant-enterobacteriaceae/case-definition/2018/>~~,

<https://ndc.services.cdc.gov/case-definitions/carbapenemase-producing-carbapenem-resistant-enterobacteriaceae-2018/>, or, if that Internet website ceases to exist, from the Division.

(q) The immunization schedules published by the United States Department of Health and Human Services and available at no cost on the Internet at <https://www.cdc.gov/vaccines/schedules/hcp/index.html>, or, if that Internet website ceases to exist, from the Division.

(r) “Epidemiology and Prevention of Vaccine-Preventable Diseases,” 14th Edition, published by the United States Department of Health and Human Services and available at no

cost on the Internet at <https://www.cdc.gov/vaccines/pubs/pinkbook/index.html>, or, if that Internet website ceases to exist, from the Division.

(s) The COVID-19 vaccine recommendations and guidelines of the Advisory Committee on Immunization Practices published by the United States Department of Health and Human Services and available at no cost on the Internet at <https://www.cdc.gov/vaccines/hcp/acip-recs/vacc-specific/covid-19.html>, or, if that Internet website ceases to exist, from the Division.

2. Except as otherwise provided in this subsection, the most current version of a recommendation, guideline or publication adopted by reference pursuant to subsection 1 which is published will be deemed to be adopted by reference. If both the state and local health authorities determine that an update of or revision to a recommendation, guideline or publication described in subsection 1 is not appropriate for use in the State of Nevada, the Chief Medical Officer will present this determination to the Board and the update or revision, as applicable, will not be adopted. If the agency or other entity that publishes a recommendation, guideline or publication described in subsection 1 ceases to publish the recommendation, guideline or publication:

(a) The last version of the recommendation, guideline or publication that was published before the agency or entity ceased to publish the recommendation, guideline or publication shall be deemed to be the current version; and

(b) The recommendation, guideline or publication will be made available on an Internet website maintained by the Division.

NEW FIRST
PARALLEL
SECTION

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

441A.755 1. Except as otherwise provided in subsection ~~10~~ **11** or unless excused because of religious belief or medical condition, a person shall not attend ~~at~~ :

(a) A university until he or she submits to the university proof *that meets the requirements of subsection 3* 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.}~~

(b) A postsecondary educational institution until he or she submits to the postsecondary educational institution proof that meets the requirements of subsection 3 of immunity to COVID-19.

2. Except as otherwise provided in subsection ~~{10}~~ 11 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 *that meets the requirements of subsection 3* of immunity to *Neisseria meningitidis*. ~~{The Division shall establish the immunization schedule required for admission of the student.}~~

3. *The proof of immunity required by subsection 1 or 2 must demonstrate that the student has:*

(a) *Been immunized in accordance with the applicable immunization schedule adopted by reference in paragraph (q) of subsection 1 of NAC 441A.200 and, if no immunization schedule has been published for COVID-19, the recommendations and guidelines adopted by reference in paragraph (s) of subsection 1 of NRS 441A.200; or*

(b) *Otherwise acquired the required immunity in a manner described in the publication adopted by reference in paragraph (r) of subsection 1 of NAC 441A.200.*

4. A student may enroll in ~~the university~~ *a postsecondary educational institution* 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~~ 5. *A postsecondary educational institution* shall retain the proof of immunity on a computerized record or on a form provided by the Division.

~~5.—The university~~ 6. *A postsecondary educational institution* 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~~ *postsecondary educational institution* a written statement indicating that his or her religious belief prohibits immunizations. The ~~university~~ *postsecondary educational institution* shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the ~~university;~~ *postsecondary educational institution:*

(a) Annually, according to the registration schedule of the ~~university~~ *postsecondary educational institution* for the duration of the enrollment of the student at the ~~university;~~ *postsecondary educational institution;* and

(b) On a form provided by the Division.

~~6.~~ 7. 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~~ *postsecondary educational institution* a statement of that fact written by a licensed physician. The ~~university~~ *postsecondary educational institution* shall

keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the ~~{university}~~ *postsecondary educational institution* on a form provided by the Division.

~~{7.}~~ 8. If additional requirements of immunity are imposed by law after a student has been enrolled in ~~{the university,}~~ *a postsecondary educational institution*, 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}~~ *postsecondary educational institution* stating that the student has met the new requirements of immunity.

~~{8.}~~ 9. If the health authority determines that, at ~~{the university,}~~ *a postsecondary educational institution*, there is a case having a communicable disease against which immunity is required for admission to the ~~{university,}~~ *postsecondary educational institution*, and a student who has not submitted proof of immunity to that disease is attending that ~~{university,}~~ *postsecondary educational institution*, the president of the ~~{university}~~ *postsecondary educational institution* shall require that:

(a) The student be immunized; or

(b) The student be excluded from the ~~{university}~~ *postsecondary educational institution* until allowed to return by the health authority.

~~{9.}~~ 10. A student shall not attend a ~~{university}~~ *postsecondary educational institution* 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}~~ *postsecondary educational institution* from which he or she is excluded until allowed to return by the health authority.

~~10.~~ 11. Any student who is enrolled in a program of distance education and who does not attend a class *or participate in a club, sport or extracurricular activity* on campus is exempt from the requirements of this section.

~~11.~~ 12. *Any person who is subject to the provisions of this section is not eligible to request a variance pursuant to NAC 439.200 to 439.280, inclusive.*

13. As used in this section:

(a) *“Community college” means any community college within the Nevada System of Higher Education.*

(b) “Postsecondary educational institution” has the meaning ascribed to it in NRS 394.099 ~~†~~ ~~—(b)† and also includes a university, state college or community college.~~

(c) *“State college” means any state college within the Nevada System of Higher Education.*

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

NEW
SECOND
PARALLEL
SECTION

Sec. 4. NAC 441A.755 is hereby amended to read as follows:

441A.755 1. Except as otherwise provided in subsection 11 or unless excused because of religious belief or medical condition, a person shall not attend ~~†~~

~~—(a) A university† a postsecondary educational institution~~ until he or she submits to the university proof that meets the requirements of subsection 3 of immunity to *COVID-19*, tetanus, diphtheria, measles, mumps, rubella and any other disease specified by the State Board of Health.

~~†(b) A postsecondary educational institution until he or she submits to the postsecondary educational institution proof that meets the requirements of subsection 3 of immunity to COVID-19.†~~

2. Except as otherwise provided in subsection 11 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~~ *postsecondary educational institution* until he or she submits to the ~~university~~ *postsecondary educational institution* proof that meets the requirements of subsection 3 of immunity to *Neisseria meningitidis*.

3. The proof of immunity required by subsection 1 or 2 must demonstrate that the student has:

(a) Been immunized in accordance with the applicable immunization schedule adopted by reference in paragraph (q) of subsection 1 of NAC 441A.200 and, if no immunization schedule has been published for COVID-19, the recommendations and guidelines adopted by reference in paragraph (s) of subsection 1 of NRS 441A.200; or

(b) Otherwise acquired the required immunity in a manner described in the publication adopted by reference in paragraph (r) of subsection 1 of NAC 441A.200.

4. A student may enroll in a postsecondary educational institution 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.

5. A postsecondary educational institution shall retain the proof of immunity on a computerized record or on a form provided by the Division.

6. A postsecondary educational institution 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 postsecondary educational institution a written statement indicating that his or her religious belief prohibits immunizations. The postsecondary educational institution shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the postsecondary educational institution:

(a) Annually, according to the registration schedule of the postsecondary educational institution for the duration of the enrollment of the student at the postsecondary educational institution; and

(b) On a form provided by the Division.

7. 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 postsecondary educational institution a statement of that fact written by a licensed physician. The postsecondary educational institution shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the postsecondary educational institution on a form provided by the Division.

8. If additional requirements of immunity are imposed by law after a student has been enrolled in a postsecondary educational institution, 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 postsecondary educational institution stating that the student has met the new requirements of immunity.

9. If the health authority determines that, at a postsecondary educational institution, there is a case having a communicable disease against which immunity is required for admission to the

postsecondary educational institution, and a student who has not submitted proof of immunity to that disease is attending that postsecondary educational institution, the president of the postsecondary educational institution shall require that:

(a) The student be immunized; or

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

10. A student shall not attend a postsecondary educational institution 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 postsecondary educational institution from which he or she is excluded until allowed to return by the health authority.

11. Any student who is enrolled in a program of distance education and who does not attend a class or participate in a club, sport or extracurricular activity on campus is exempt from the requirements of this section.

12. Any person who is subject to the provisions of this section is not eligible to request a variance pursuant to NAC 439.200 to 439.280, inclusive.

13. As used in this section:

(a) "Community college" means any community college within the Nevada System of Higher Education.

(b) "Postsecondary educational institution" has the meaning ascribed to it in NRS 394.099 and also includes a university, state college or community college.

(c) "State college" means any state college within the Nevada System of Higher Education.

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

Sec. 5. 1. This section and sections 1 to 3, inclusive, of this regulation become effective on the date on which this regulation is filed with the Secretary of State.

2. Section 4 of this regulation becomes effective on July 1, 2024.