



DATE: March 9, 2016

TO: Washington State Board of Health Members

FROM: Michelle Davis
Executive Director

SUBJECT: PETITION FOR RULEMAKING CHAPTER 246-105 WAC IMMUNIZATION OF CHILD CARE AND SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES (CONDITIONAL STATUS)

Background and Summary:

The Washington State Board of Health (Board) has authority under RCW 28A.210.140 to adopt rules to establish the procedural and substantive requirements for full immunization, and the form and substance of proof of immunizations. The Board's rule Chapter 246-105 WAC Immunization of Child Care and School Children Against Certain Vaccine-Preventable Diseases:

- Identifies the vaccine preventable diseases that children be protected against for full immunization before attending schools or child care centers;
- Grants the Department of Health the authority to develop and implement guidelines for schools and child care centers, consistent with national immunization guidelines;
- Describes the documentation required for proof of immunization;
- Establishes the duties of school and child care centers (forms, record keeping and maintenance including documentation of children with medical religious, philosophical or personal exemptions);
- Requires health care providers or organizations to share immunization records with the immunized person or his or her parent; and
- Establishes criteria for excluding children from schools or child care centers.

The February 2016 petitions for rulemaking from Ms. Beddoe and Ms. Hunt request that the Board change its rules to prohibit a child who is not fully immunized from school entry. Ms. Beddoe provided additional clarification that she would be amenable to reasonable accommodation for conditional status currently afforded to children in military families under RCW 28A.705.010 Article IV; homeless children and youth under the McKinney Vento Act, and those children who are making satisfactory progress towards full immunization.

Ms. Hunt is requesting that the Board amend part of the definition of "satisfactory progress" to eliminate the provision allowing missing immunizations be received within thirty days after the first day of attendance or after a temporary medical exemption is no longer valid. Both petitioners seek to move the state immunization requirements to require children to be fully immunized prior to school entry, unless they are in conditional status, or have an exemption under RCW 28A.210.090 Immunization programs-- Exemptions.

RCW 28A.210.080(1) sets the general requirements for immunizations and school attendance. It requires the attendance of every child at public and private schools and licensed day care centers to be conditioned on proof of full immunization, the initiation of and compliance with a schedule of immunization as required by Board rules, or a certificate of exemption. The proof of immunization must be presented on or before the first day of attendance.

As part of a 2009 revision of the immunization rules, the Board edited the definition of “conditional status” and added a new definition of “satisfactory progress” to clarify when a child is allowed a grace period to catch up on missing required immunizations, and how long the grace period will last before a child becomes out of compliance with the rule. WAC 246-105-020 defines “conditional” as “a type of temporary immunization status where a child is not immunized against one or more of the vaccine-preventable diseases required by this chapter for full immunization. A child in this status is allowed to attend a school or child care center provided the child makes satisfactory progress toward full immunization.” This decision was informed by discussions regarding adoption of the interstate military compact.

WAC 246-105-020 defines “satisfactory progress” within the context of conditional status or an expired temporary medical exemption, as: “the start or continuance towards full immunization status through the receipt of missing immunizations in a manner consistent with the national immunization guidelines described in WAC 246-105-040 and within the following time frames:

- (a) Any missing immunizations must be received within thirty days after the first day of attendance or after a temporary medical exemption is no longer valid, unless receipt within such time is inconsistent with the guidelines.

- (b) When the immunizations are part of a series with recommended intervals between doses, each additional missing immunization must be received no later than thirty days past the recommended date of administration of the next dose as established by the guidelines.”

In 2009, the state Legislature adopted the Interstate Military Compact into state law. RCW 28A.705.010 Article IV, creates a specific provision for immunizations for children of military families:

Immunizations – On or before the first day of attendance, the parent or guardian must meet the immunization documentation requirements of the Washington board of health. Compacting states shall give thirty days from the date of enrollment ... for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

In addition, the McKinney-Vento Homeless Assistance Act, 42 USC s. 11431 et. seq., requires state and local education agencies that receive financial assistance under its provisions to review

and revise any policies that may act as barriers to the enrollment of homeless children and youths, including immunizations. Schools must immediately enroll homeless children and youth, even if they cannot provide records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation (42 U.S.C. §11432(g)(3)(C)(i)). The Office of Superintendent of Public Instruction oversees the implementation of this Act, and provides direction and guidance to schools on this issue.

The definitions of conditional status and satisfactory progress within WAC 246-105-020 do not specifically cite McKinney-Vento or the Interstate Military Compact. As a result, schools may allow any child who is not fully immunized or does not have a completed Certificate of Immunization Status form (CIS) to attend school for thirty days prior to confirming the child is fully immunized (or showing satisfactory progress toward being fully immunized). The Board has received written testimony from school nurses who are struggling with the administrative burden of obtaining the completed CIS form from parents and the subsequent follow up that is needed until the parents present the completed forms.

Michele Roberts, Director of the Office of Immunization and Child Profile is here to provide more detail about the history of the immunization rules, the use of conditional status and some of the feedback that the her staff have received on this rule.

Discussion:

Some of the questions that the Board may wish to consider in its review of the petitions:

Should conditional status and satisfactory progress be limited to children of military families, homeless youth, and children who are making progress toward full immunization?

Does the Board need additional data or information regarding immunization rates and children who are out of compliance?

What are the implications of excluding children whose immunization information is incomplete with regard to future academic success or retention rates?

Is there data regarding the risk of disease transmission during the thirty day delay period?