

SB20-163: SCHOOL ENTRY IMMUNIZATION

Concerning development of a standardized form and submission process for nonmedical exemptions from immunizations.

Details

Bill Sponsors:	House – <i>Mullica (D)</i> Senate – <i>Gonzales (D) and Priola (R)</i>
Committee:	Senate Health & Human Services Senate Appropriations House Health & Insurance
Bill History:	2/11/2020 - Introduced In Senate 2/19/2020 – Senate Health & Human Services Refer Unamended to Appropriations 2/25/2020 – Senate Appropriations Refer Amended to Committee of the Whole 2/27/2020 – Senate Second Reading Passed with Amendments 2/28/2020 – Senate Third Reading Passed Unamended 3/2/2020 – Introduced in House
Next Action:	Hearing House Health & Insurance
Fiscal Note:	<u>2/18/2020</u>

Bill Summary

The bill requires the Department of Public Health and Environment (CDPHE) to develop a standardized form and submission process for individuals to claim a medical, religious, or personal belief exemption to an immunization. In order to claim a personal or religious belief exemption for their child, this bill would require parents to submit either a certificate of completion of an online education module approved by CDPHE, or a certificate of nonmedical exemption. The bill establishes a statewide vaccination goal for schools and child care facilities. All immunizing health care providers would be required to use the currently voluntary immunization data system.

Issue Summary

Advisory Committee on Immunization Practices (ACIP)

Formed in 1964, the Advisory Committee on Immunization Practices (ACIP) is an entity within the Centers for Disease Control and Prevention (CDC) that develops the recommendations regarding the use of vaccines for the general public based on scientific evidence.¹ ACIP collaborates with many organizations to develop its recommendations to annually update the immunization schedules for childhood and adolescents as well as adults.² For a 4-6 year old school-age child, it is currently recommended by the CDC that they have received the following vaccinations since birth:³

- Diphtheria, tetanus, pertussis (DTap)
- Hepatitis B
- Hepatitis A
- Inactivated poliovirus (IPV)

¹ CDC (2019). *Advisory Committee on Immunization Practices (ACIP)*. Retrieved from <https://www.cdc.gov/vaccines/acip/index.html>

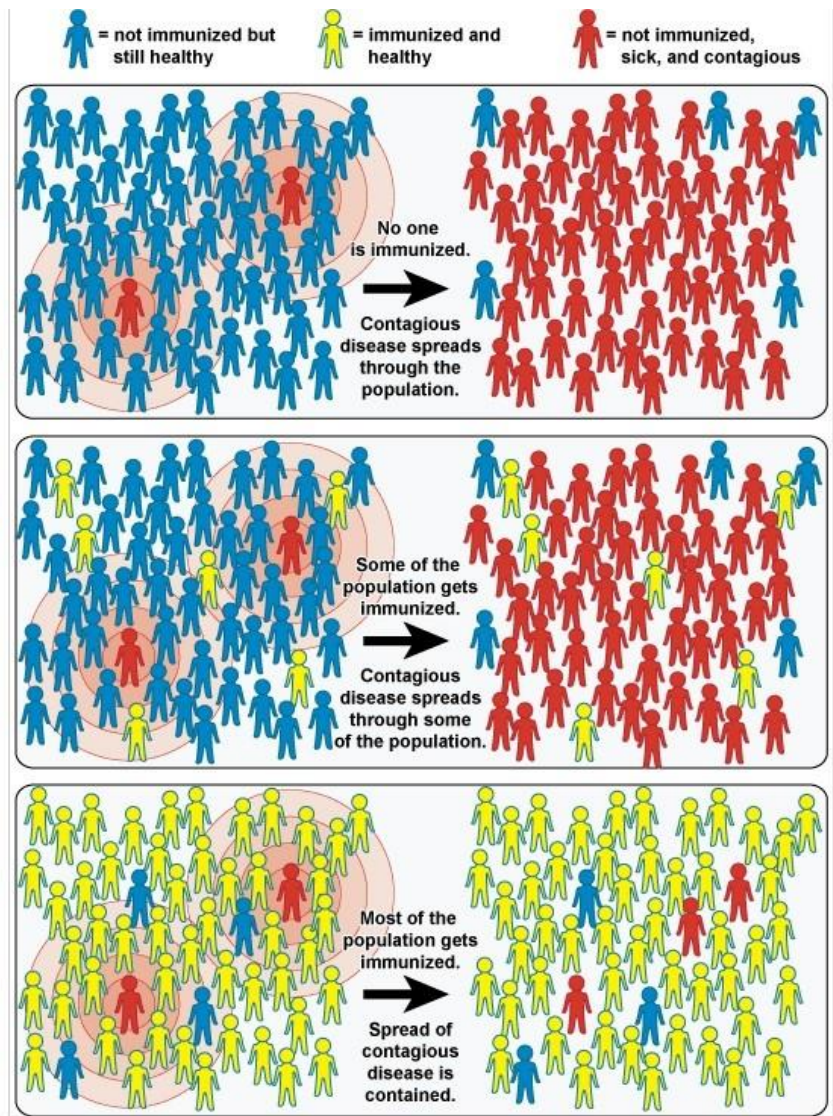
² Walton, L.R., Orenstein, W.A., & Pickering, L.K. (2015). *The history of the United States Advisory Committee on Immunization Practices (ACIP)*. Retrieved from <https://www.ncbi.nlm.nih.gov/m/pubmed/25446820/>

³ Centers for Disease Control and Prevention (Feb 3 2020) *2020 Recommended Vaccinations for Infants and Children (birth through 6 years) Parent-Friendly Version*. Retrieved from <https://www.cdc.gov/vaccines/schedules/easy-to-read/child-easyread.html>

- Measles, mumps, rubella (MMR)
- Pneumococcal (PCV13)
- Rotavirus (RV)
- Varicella (chicken pox)
- Haemophilus influenzae type b (Hib)

Herd Immunity

Herd immunity, also known as community immunity, works when enough people are vaccinated against a disease, so it cannot travel as easily from person to person; therefore, the entire community is less likely to contract the disease.⁴ Since some individuals cannot get immunized, due to factors such as age, serious allergies, or a weakened or failing immune system; the herd immunity works to protect them if the majority of the population is immunized. For example, to achieve herd immunity for measles, at least 90 to 95 percent of the population needs to be vaccinated.⁵ The following graphic from the National Institute of Allergy and Infectious Diseases demonstrates how herd immunity works.⁶ Eradication of diseases requires high levels of population immunity in all regions of the world. To date, only smallpox has been eradicated.⁷ Diseases can also be eliminated locally without global eradication. However, in the case of local elimination the disease can be reintroduced from another region, which is why it is important to continue vaccination for the disease to ensure the continuation of herd immunity. For diseases that are also found in animals or the environment (i.e. tetanus), eradication may not be possible but global elimination is possible if vaccination is maintained at high levels.⁷



Credit: NIAID

National Vaccination Landscape

School requirements for vaccinations vary from state to state and “usually reflect the recommendations of the ACIP.”⁸ All states allow exemptions for medical reasons and almost all states have religious belief exemptions (excluding California, Mississippi, New York, and West Virginia). Sixteen states, including

⁴ U.S. Dept. of Health and Human Services (n.d.) *Vaccines Protect Your Community*. Retrieved from <https://www.vaccines.gov/basics/work/protection>

⁵ University of Oxford, Oxford Vaccine Group (April 26, 2016). *Herd Immunity: How does it work?* Retrieved from <https://www.ovg.ox.ac.uk/news/herd-immunity-how-does-it-work>

⁶ American Academy of Pediatrics (Apr. 18, 2016). *It Takes a Herd*. Retrieved from <https://www.aap.org/en-us/aap-voices/Pages/It-Takes-a-Herd.aspx>

⁸ National Conference of State Legislatures (Jan. 17, 2019). *Immunization Policy Issues Overview*. Retrieved from <http://www.ncsl.org/research/health/immunizations-policy-issues-overview.aspx>

Colorado, currently allow for personal/philosophical exemptions from vaccinations. Of the states that allow nonmedical exemptions from vaccines, all but Colorado and Maine have a standardized process and form for nonmedical exemptions.

Federal funds pay for approximately 95 percent of publicly funded vaccinations through the Vaccines for Children Program and Section 317 of the Public Health Services Act.⁸ All states and the District of Columbia had at least one regional or local immunization registry and 94 percent of children in 2016 participated in one of these registries.⁸

In October 2019, the CDC reported that the vaccination coverage of kindergartners for the 2018-19 school year had increased compared to the previous year's data.⁸ The report found that the median vaccination coverage was 94.7 percent of 2 doses of measles, mumps, and rubella (MMR).⁸ The median percentage of kindergartners with an exemption from at least one vaccine was 2.5 percent.⁸

Vaccinations in Colorado

For the 2018-19 school year Colorado kindergartners had 87.4 percent coverage for MMR, 86.5 percent coverage for chickenpox, and 90.3 percent coverage for DTaP (diphtheria, tetanus, and pertussis).⁹ This coverage is below the national median for those vaccinations. Average exemption rates vary not only throughout the state but also within school districts and cities. The following chart is from CDPHE and shows the fully immunized rate versus the exemption rate for Colorado kindergartners.¹⁰

Vaccine	Fully immunized rate	Exemption rate
DTaP	90.31%	4.07%
Hep B	90.82%	4.23%
MMR	87.43%	4.54%
Polio	87.24%	4.57%
Varicella	86.55%	4.88%

Additionally, the following chart from CDPHE details the kindergarten exemption data per type of exemption and vaccine.

Vaccine	Personal belief exemption	Religious exemption	Medical exemption
DTaP	89.09%	8.11%	2.79%
Hep B	90.45%	7.34%	2.21%
MMR	89.27%	7.48%	3.26%
Polio	90.05%	7.33%	2.62%
Varicella	89.30%	7.06%	3.64%

This Legislation

The bill defines a "nonmedical exemption" as an immunization exemption based upon a religious belief whose teachings are opposed to immunizations or a personal belief that is opposed to immunizations.

The bill amends school immunization requirements to add that a student shall not attend any school unless they have presented to the appropriate school official an up-to-date certificate of immunization from a

⁹ CDC (Oct. 12, 2018). Vaccination Coverage for Selected Vaccines and Exemption Rates Among Children in Kindergarten- United States, 201718 School Year. *Morbidity and Mortality Weekly Report* 67(40); 1115-1122. Retrieved from https://www.cdc.gov/mmwr/volumes/67/wr/mm6740a3.htm?s_cid=mm6740a3_w

¹⁰ Questions and Answers about Colorado's 2018-2019 School and Childcare Immunization Data. (n.d.). Retrieved from <https://docs.google.com/document/d/11Hys50el6Ob24PkpSwiWTKbKaeCicSpkhd5ZPuOJ9-M/edit>

physician, physician assistant, advanced practice nurse, or authorized representative from CDPHE or a local public health agency. The certificate must state that the student received immunizations as specified by the Board of Health, based on the recommendations of ACIP. A student is not required to comply with this requirement if they are participating in a nonpublic home-based educational program, except a school district, private school, or charter school can require compliance if the student attends school for a portion of the school day. The appropriate school official may also accept a written authorization signed by a parent, legal guardian, emancipated student, or student older than 18 that requests that local public health officials administer the immunizations. Additionally, the official may accept a certificate of medical exemption, a certificate of completion of the online education module, or a certificate of a religious or personal belief exemption. By January 15, 2021, CDPHE is to develop a standardized document regarding childhood immunizations and provide it to the Department of Education (CDE) and Department of Human Services (DHS). CDPHE must update the document annually. CDE and DHS are to post the document on their websites by January 31, 2021, and by each January 31 every year after. The document must include:

- a list of the immunizations required for enrollment and the age at which the immunization is required
- a list of immunizations currently recommended for children by ACIP and the recommended age at which the immunization should be given
- a place on the document where a school can include its specific immunization and exemption rates measles, mumps, and rubella (MMR) vaccine and for every other vaccine for its enrolled population from the prior school year in comparison to the vaccinated children standard
- a statement that the school is required to collect and report this information and that it does not control its specific rates or establish the vaccinated children standard

By February 15, 2021, and every year after, a school should include its specific immunization and exemption rates for the MMR vaccine. The school may include on the document the school's specific rates for any other vaccine for the school's enrolled student population for the prior school year. The school is to directly distribute the document to the parent or legal guardian of each enrolled student, each emancipated student, or student 18 or older.

Parents or legal guardians are to have their child immunized or an emancipated student/a student 18 or older are to have themselves immunized unless they are exempted. Exemptions can occur in the following ways. They can claim a medical exemption through a certificate completed by a licensed physician, physician assistant (PA), or advanced practice nurse (APN), which states that the physical condition of the student is such that one or more of the immunizations would endanger their life or are medically contraindicated due to medical condition(s). The certificate must be provided to the student/parent/guardian. The physician, PA, or APN must submit the medical exemption data to the immunization tracking system.¹¹

The individual could also submit to the school either a certificate of completion of the online education module or a completed certificate of nonmedical exemption signed by the parent/legal guardian, an emancipated student, or a student over the age of 18, which states that they are an adherent to a religious belief whose teachings are opposed to immunizations or have a personal belief that is opposed. The certificate of nonmedical exemption must also include the signature of a licensed/certified health care provider that can administer immunizations within their scope of practice. These providers are not required to sign a nonmedical exemption certificate. The physician, PA, or APN that signed the certificate must submit the nonmedical exemption data to the immunization tracking system.¹² The professional body or board that regulates providers that can administer immunizations shall not order disciplinary action against the provider because they signed a nonmedical exemption certificate. Additionally, it is unlawful for a provider's employer or any professional organization to retaliate against the provider for signing the nonmedical

¹¹ The physician, PA or APN is not subject to a regulatory sanction for failing to submit exemption data to the immunization tracking system.

¹² The physician, PA or APN is not subject to a regulatory sanction for failing to submit exemption data to the immunization tracking system.

exemption certificate. The certificate of completion of the online education module, developed by CDPHE, must be immediately available for download/printing and have the same information as the nonmedical exemption certificate. A copy of the nonmedical exemption certificate must be provided to the student/parent/guardian by the medical provider.

By January 1, 2021 CDPHE is to develop and post on its website a standardized medical exemption certificate and nonmedical exemption certificate. At the minimum, the forms must:

- include notice that informs the individual that there is option for student's exemption information to be excluded from the immunization tracking system
- be limited to requests for information to collecting data pertaining to an exemption, including but not limited to: the student's immunization information and the vaccine(s) for which the exemption applies and whether the exemption is nonmedical or medical
- not require the student's parent/guardian, emancipated student, or student over the age of 18 to provide any demographic data except the student's name, date of birth, sex, school's name and location, and the parent/guardian name
- include references to scientifically based information regarding the benefits and risks of immunizations
- not require the individual to provide any information that would identify the religious faith or describe the reasons for the personal belief

The forms must not require the parent/guardian, emancipated student, or student over the age of 18 to sign or indicate agreement with any language regarding immunizations that may be contrary to a religious or personal belief that is opposed to immunizations in order to complete the form.

The online education module must include scientific data that is evidence based and peer reviewed from credible scientific and public health organizations to concerning both the benefits and risks of immunizations and evidence based practices. It must fairly present both the benefits and risks of immunizations and include data concerning the risk of immunization injury. The module must be interactive. CDPHE can include in the module any other criteria. The module must not require the parent/guardian, emancipated student, or student over the age of 18 to sign or indicate agreement with any language regarding immunizations that may be contrary to a religious or personal belief that is opposed to immunizations in order to complete the module.

CDPHE is to annually evaluate the state's immunization practices, including an examination of updated best practices and guidelines recommended by ACIP. The Board of Health is to review the evaluation and may update the immunization practices.

The General Assembly declares that it is necessary to establish a vaccinated children standard. The immunization rate goal for every school is 95 percent of the student population to be vaccinated in accordance with schedule established by the Board of Health. Achieving the rate goal will help reduce the spread of infectious diseases and protect the health of all people in the school community, including the students who cannot be immunized for medical reasons. In order to achieve the rate goal, CDPHE is to collaborate with local public health agencies and schools to provide information and technical assistance regarding best practices to educate and engage with students and families about vaccines, the risks of vaccine-preventable diseases, and where vaccines are administered.

All immunization and exemption data that is submitted to the immunization tracking system is subject to specific confidentiality provisions.¹³

¹³ C.R.S. § 25-4-2403

For the 2020-21 state fiscal year, \$41,906 is appropriated to CDPHE.

The bill is effective upon the Governor's signature or if the Governor allows it to become law without their signature.

Fiscal Note

The bill will increase the workload for CDPHE, and will require an appropriation of \$41,906 for state fiscal year 2020-2021. The funds are needed for a 0.1 FTE health professional to work on the online education module, the purchase of software licenses, an annual evaluation, and information technology programming changes.

Reasons to Support

Immunizations are important tools for protecting children and adults from serious, life-threatening, and once-common illnesses. This bill may increase vaccination rates, which would improve herd immunity to protect those that cannot be immunized from these illnesses. The proposed process for obtaining a personal belief or religious exemption may give health care providers the opportunity to share evidence-based information with parents, guardians, and students. Current law makes it easier for parents to claim an exemption rather than follow the recommended vaccination schedule. High exemption rates make communities vulnerable to outbreaks and jeopardize the health of the most medically vulnerable populations, including newborn babies and individuals who cannot be vaccinated due to compromised immune systems. The requirements within the bill standardize the exemption process, which may make it so only those who truly need a medical exemption or hold a personal or religious belief would follow the new process. Additionally, improving herd immunity could contribute to the elimination of vaccine-preventable diseases in North America, and in the long-term the possible eradication of those diseases from the world.

The secondary purpose of this bill is to increase usage of the state-wide immunization tracking system. The bill's focus on this system is also important in order to update and increase the quality of vaccination data statewide. Gathering exemption and immunization information can better allow for quick action to be taken if a disease outbreak occurs.

Further, the bill requires schools to directly distribute a document to parents and guardians that includes the school's immunization and exemption rates for the prior school year. This requirement could allow parents of children that cannot be vaccinated due to medical reasons and other parents to have essential knowledge regarding the environment where their child is attending school.

Supporters

- American Academy of Pediatrics
- Colorado Academy of Family Physicians
- Colorado Association of Health Plans
- Colorado Association of Local Public Health Officials (CALPHO)
- Colorado Association of School Nurses
- Colorado BioScience Association
- Colorado Catholic Conference
- Colorado Chamber of Commerce
- Colorado Children's Campaign
- Colorado Cross-Disability Coalition
- Colorado Hospital Association
- Colorado Medical Society
- Colorado Nurses Association
- Colorado Obstetrical & Gynecological Society
- Colorado Parents for Vaccinated Communities
- COPIC
- Council for a Strong America
- Children's Hospital Colorado
- GlaxoSmithKline
- HCA- The Healthcare Company
- Healthier Colorado
- Immunize Colorado
- Interfaith Alliance

- Junior League Denver
- Kaiser Permanente
- Kaiser Foundation Health Plan
- Merck Sharp & Dohme
- Poudre School District
- RxPlus Pharmacies
- SCL Health
- United HealthCare

Reasons to Oppose

Some assert that the bill gives the Board of Health too broad of authority to add required vaccinations and to determine the timing of compliance with the required process. Another concern is regarding access to technology across the state, which could prove to be a barrier to accessing the online education module and the resulting exemption. There is also concern around the online education module only discussing the benefits of vaccinations and not discussing the risks, some individuals argue that this could be seen as indoctrination. Although, the bill as amended on the Senate floor includes language that possible risks are to be included on the exemption certificates. Further, some opponents assert that the collection of immunization and exemption information by CDPHE may violate federal privacy laws, including HIPAA.¹⁴

Opponents

- Christian Home Educators of Colorado

Other Considerations

Some believe that the bill could do more to combat non-immunization in Colorado, including completely removing the ability of receiving non-medical exemptions. This policy does not apply to many homeschooled children, which negatively impacts the herd immunity of the community.

About this Analysis

This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. This analysis is accurate to staff knowledge as of date printed. For more information about this analysis or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at awilliams@healthdistrict.org.

¹⁴ The Colorado Immunization Information System (CIIS) complies with state and federal privacy laws, including FERPA and HIPAA. More information at <https://www.colorado.gov/pacific/cdphe/policies-and-procedures>