
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§302A- Psychotropic medication; student's right to
5 attend school. Any other law to the contrary notwithstanding,
6 no child shall be deprived of the right or be refused by the
7 department of education to attend a public school, to
8 participate in school activities, or to receive any services
9 from a public school because the child's parent, guardian, or
10 other legally responsible person declines to administer any
11 psychotropic or other medication to the child based upon any
12 diagnosis by an employee of the departments of education or
13 health or by a licensed physician or nurse in the State that the
14 child suffers from any form of attention deficit hyperactivity
15 disorder or a similar disorder."

16 SECTION 2. Section 302A-1154, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:



1 "(a) [~~No~~] A child [~~shall~~] may attend any school in the
2 State [~~unless~~] if the child presents to the appropriate school
3 official documentation satisfactory to the department of health
4 that the child has received immunizations against communicable
5 diseases as [~~required~~] recommended by the department of
6 health[~~-~~]; provided that any parent, custodian, guardian, or any
7 other person in loco parentis to a child may object to
8 immunization on any grounds, pursuant to section 302A-1156, and
9 upon showing the appropriate school official satisfactory
10 evidence of the exemption, no certificate or other evidence of
11 immunization shall be required for the child's entry into
12 school."

13 SECTION 3. Section 302A-1155, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§302A-1155 Provisional entrance to school.** (a) A child
16 may enter school provisionally upon submitting written
17 documentation from a licensed physician, advanced practice
18 registered nurse, or an authorized representative of the
19 department of health, stating that the child is in the process
20 of receiving the [~~required~~] recommended immunizations. Further
21 documentation showing that the [~~required~~] recommended
22 immunizations have been completed shall be submitted to the



1 appropriate school official no later than three months after the
2 child first entered the school. If all of the [~~required~~]
3 recommended immunizations cannot be completed within three
4 months due to the length of the minimum intervals between doses
5 of a particular vaccine [~~required~~] recommended by the department
6 of health, provisional admission may be extended so long as the
7 child's parent or guardian provides documentation that
8 appointments for [~~required~~] recommended immunizations have been
9 made and that progress toward completing the immunizations
10 continues in accordance with the requirements of the department
11 of health.

12 (b) Provisional entrance to school may be suspended by the
13 department of health when there is danger of an epidemic from
14 any of the communicable diseases for which immunization is
15 [~~required.~~] recommended."

16 SECTION 4. Section 302A-1156, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~+~~]**§302A-1156**[~~+~~] **Exemptions.** A child may be exempted
19 from the [~~required~~] recommended immunizations:

20 (1) If a licensed physician certifies that the physical
21 condition of the child is such that immunizations
22 would endanger the child's life or health; or



1 (2) If any parent, custodian, guardian, or any other
2 person in loco parentis to a child objects to
3 immunization in writing on any grounds, including the
4 grounds that the immunization conflicts with that
5 person's bona fide religious tenets and practices.
6 Upon showing the appropriate school official
7 satisfactory evidence of the exemption, no certificate
8 or other evidence of immunization shall be required
9 for the child's entry into school."

10 SECTION 5. Section 302A-1157, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~§~~302A-1157~~§~~ **Exemptions from immunization; not**
13 **recognized; epidemic conditions.** If at any time there is, in
14 the opinion of the department of health, danger of an epidemic
15 from any of the communicable diseases for which immunization is
16 ~~required~~ recommended under sections 302A-1154 to 302A-1163, no
17 exemption from immunization against the disease shall be
18 recognized. Quarantine shall be a legal alternative to
19 immunization."

20 SECTION 6. Section 302A-1161, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§302A-1161 Notification for noncompliance.** If a child
2 does not complete the [~~immunizations required~~]:

3 (1) Immunizations recommended under section 302A-1154; or
4 [~~the physical~~]

5 (2) Physical examination required under section 302A-1159
6 within the period provided by section 302A-1155 after
7 provisional entry into school, the administrator of the school
8 shall cause a notice to be sent to the parent or guardian of the
9 child stating that if the [~~required~~] recommended immunizations
10 or physical examination is not completed within thirty days of
11 the date of the notice, unless an exemption from the recommended
12 immunizations is obtained pursuant to section 302A-1156, the
13 child shall not be admitted to school."

14 SECTION 7. Section 302A-1162, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The department of health shall adopt rules under
17 chapter 91 relating to immunization, physical examination, and
18 tuberculin testing under sections 302A-1154 to 302A-1163.
19 Immunizations [~~required,~~] recommended, and the manner and
20 frequency of their administration, shall conform with recognized
21 standard medical practices. The list of diseases and minimum
22 requirements for protection under sections 302A-1154 to 302A-



1 1163 may be revised whenever the department of health deems it
2 necessary for the protection of public health."

3 SECTION 8. Section 321-11, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§321-11 Subjects of health rules, generally.** The
6 department pursuant to chapter 91 may adopt rules that it deems
7 necessary for the public health and safety respecting:

- 8 (1) Nuisances, foul or noxious odors, gases, vapors,
9 waters in which mosquitoes breed or may breed, sources
10 of filth, and causes of sickness or disease, within
11 the respective districts of the State, and on board
12 any vessel;
- 13 (2) Adulteration and misbranding of food or drugs;
- 14 (3) Location, air space, ventilation, sanitation,
15 drainage, sewage disposal, and other health conditions
16 of buildings, courts, construction projects,
17 excavations, pools, watercourses, areas, and alleys;
- 18 (4) Privy vaults and cesspools;
- 19 (5) Fish and fishing;
- 20 (6) Interments and dead bodies;
- 21 (7) Disinterments of dead human bodies, including the
22 exposing, disturbing, or removing of these bodies from



1 their place of burial, or the opening, removing, or
2 disturbing after due interment of any receptacle,
3 coffin, or container holding human remains or a dead
4 human body or a part thereof and the issuance and
5 terms of permits for the aforesaid disinterments of
6 dead human bodies;

7 (8) Cemeteries and burying grounds;

8 (9) Laundries, and the laundering, sanitation, and
9 sterilization of articles including linen and uniforms
10 used by or in the following businesses and
11 professions: barber shops, manicure shops, beauty
12 parlors, electrology shops, restaurants, soda
13 fountains, hotels, rooming and boarding houses,
14 bakeries, butcher shops, public bathhouses, midwives,
15 masseurs, and others in similar calling, public or
16 private hospitals, and canneries and bottling works
17 where foods or beverages are canned or bottled for
18 public consumption or sale; provided that nothing in
19 this chapter shall be construed as authorizing the
20 prohibiting of laundering, sanitation, and
21 sterilization by those conducting any of these
22 businesses or professions where the laundering or



1 sterilization is done in an efficient and sanitary
2 manner;

3 (10) Hospitals, freestanding surgical outpatient
4 facilities, skilled nursing facilities, intermediate
5 care facilities, adult residential care homes, adult
6 foster homes, assisted living facilities, special
7 treatment facilities and programs, home health
8 agencies, hospices, freestanding birthing facilities,
9 adult day health centers, independent group
10 residences, and therapeutic living programs, but
11 excluding youth shelter facilities unless clinical
12 treatment of mental, emotional, or physical disease or
13 handicap is a part of the routine program or
14 constitutes the main purpose of the facility, as
15 defined in section 346-16 under "child care
16 institution". For the purpose of this paragraph,
17 "adult foster home" has the same meaning as provided
18 in section 321-11.2;

19 (11) Hotels, rooming houses, lodging houses, apartment
20 houses, tenements, and residences for persons with
21 developmental disabilities including, but not limited
22 to, those built under federal funding;



- 1 (12) Laboratories;
- 2 (13) Any place or building where noisome or noxious trades
- 3 or manufacturers are carried on, or intended to be
- 4 carried on;
- 5 (14) Milk;
- 6 (15) Poisons and hazardous substances, the latter term
- 7 including but not limited to any substance or mixture
- 8 of substances which:
 - 9 (A) Is corrosive;
 - 10 (B) Is an irritant;
 - 11 (C) Is a strong sensitizer;
 - 12 (D) Is inflammable; or
 - 13 (E) Generates pressure through decomposition, heat,
 - 14 or other means,
 - 15 if the substance or mixture of substances may cause
 - 16 substantial personal injury or substantial illness
 - 17 during or as a proximate result of any customary or
 - 18 reasonably foreseeable handling or use, including
 - 19 reasonably foreseeable ingestion by children;
- 20 (16) Pig and duck ranches;
- 21 (17) Places of business, industry, employment, and
- 22 commerce, and the processes, materials, tools,



- 1 machinery, and methods of work done therein; and
2 places of public gathering, recreation, or
3 entertainment;
- 4 (18) Any restaurant, theater, market, stand, shop, store,
5 factory, building, wagon, vehicle, or place where any
6 food, drug, or cosmetic is manufactured, compounded,
7 processed, extracted, prepared, stored, distributed,
8 sold, offered for sale, or offered for human
9 consumption or use;
- 10 (19) Foods, drugs, and cosmetics, and the manufacture,
11 compounding, processing, extracting, preparing,
12 storing, selling, and offering for sale, consumption,
13 or use of any food, drug, or cosmetic;
- 14 (20) Devices as defined in section 328-1;
- 15 (21) Sources of ionizing radiation;
- 16 (22) Medical examination, vaccination, revaccination, and
17 immunization of school children. No child shall be
18 subjected to medical examination, vaccination,
19 revaccination, or immunization [~~whose~~] if the child's
20 parent or guardian objects in writing thereto on any
21 grounds, including grounds that the requirements are
22 not in accordance with the religious tenets of an



1 established church of which the parent or guardian is
2 a member or adherent, but no objection shall be
3 recognized when, in the opinion of the department,
4 there is danger of an epidemic from any communicable
5 disease;

6 (23) Disinsectization of aircraft entering or within the
7 State as may be necessary to prevent the introduction,
8 transmission, or spread of disease or the introduction
9 or spread of any insect or other vector of
10 significance to health;

11 (24) Fumigation, including the process by which substances
12 emit or liberate gases, fumes, or vapors which may be
13 used for the destruction or control of insects,
14 vermin, rodents, or other pests, which, in the opinion
15 of the department, may be lethal, poisonous, noxious,
16 or dangerous to human life;

17 (25) Ambulances and ambulance equipment;

18 (26) Development, review, approval, or disapproval of
19 management plans submitted pursuant to the Asbestos
20 Hazard Emergency Response Act of 1986, Public Law 99-
21 519; and



1 (27) Development, review, approval, or disapproval of an
2 accreditation program for specially trained persons
3 pursuant to the Residential Lead-Based Paint Hazard
4 Reduction Act of 1992, Public Law 102-550.

5 The department may require any certificates, permits, or
6 licenses that it may deem necessary to adequately regulate the
7 conditions or businesses referred to in this section."

8 SECTION 9. Section 325-32, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§325-32 Immunization against infectious diseases.** The
11 department of health may adopt rules [~~requiring~~] recommending
12 and governing immunization against typhoid fever, pertussis
13 (whooping cough), diphtheria, tetanus, poliomyelitis, measles,
14 mumps, hepatitis B, rubella, haemophilus influenzae type B, and
15 any other communicable disease, if a suitable immunizing agent
16 is available for the disease and a need for immunization against
17 it exists within the State. The department may also provide
18 vaccines and other immunizing agents to private and public
19 health care providers for administration to the general public."

20 SECTION 10. Section 325-33, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§325-33 Performance of vaccination and immunization.**

2 Vaccinations or immunizations [~~required of~~] recommended for any
3 person under this chapter shall be performed by duly licensed
4 physicians or paramedical personnel under their direction,
5 advanced practice registered nurses, or by authorized
6 representatives of the department of health. A record of the
7 immunization shall be maintained by the physician or advanced
8 practice registered nurse and shall be available to the
9 department of education for school entry requirements and the
10 department of health."

11 SECTION 11. Section 325-34, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§325-34 Exemptions.** (a) Section 325-32 shall be
14 construed not to require the vaccination or immunization of any
15 person for three months after a duly licensed physician or an
16 authorized representative of the department of health has signed
17 two copies of a certificate, stating the name and address of the
18 person and that because of a stated cause the health of the
19 person would be endangered by the vaccination or immunization,
20 and has forwarded the original copy of the certificate to the
21 person or, if the person is a minor or under guardianship, to
22 the person's parent or guardian[7] and has forwarded the



1 duplicate copy of the certificate to the department for its
2 files.

3 **(b)** No person shall be subjected to vaccination,
4 revaccination, or immunization[7] who [~~shall~~] objects in writing
5 [~~object thereto~~] on any grounds, including the grounds that the
6 requirements are not in accordance with the religious tenets of
7 an established church of which the person is a member or
8 adherent[7] or, if the person is a minor or under guardianship,
9 whose parent or guardian [~~shall~~] objects in writing [~~object~~
10 ~~thereto~~] on any such grounds, but no objection shall be
11 recognized when, in the opinion of the director of health, there
12 is danger of an epidemic from any communicable disease."

13 SECTION 12. Section 325-36, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§325-36 Duty of adult, or of parent, guardian, or**
16 **caregiver.** (a) Every adult person [~~required~~] recommended to be
17 immunized, or to do any other act, unless the person is a minor
18 or incompetent, shall cause the immunization or other act to be
19 performed[7] unless exempted under section 325-34.

20 (b) If the person is a minor or incompetent, the person's
21 parent, or guardian having the person's care, custody, and



1 control, shall cause the immunization or other related act to be
2 performed~~[.]~~ unless exempted under section 325-34.

3 (c) If reasonable efforts have been made to obtain consent
4 from the person's parent or guardian, and consent is not
5 obtainable because the parent or guardian cannot be located or
6 contacted, a caregiver with whom the minor or incompetent person
7 lives, or a non-custodial parent, may cause the immunization or
8 other related act to be performed~~[.]~~ unless exempted under
9 section 325-34."

10 SECTION 13. Section 325-37, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§325-37 Fraud; wilful misrepresentation; failure to**
13 **comply; penalties.** Any person who by fraud or wilful
14 misrepresentation circumvents or defeats or attempts to
15 circumvent or defeat any purpose [~~or provision of any~~] of
16 sections 325-32 to 325-34 or who, [~~required by any provision of~~]
17 pursuant to section 325-32, is recommended to be vaccinated or
18 immunized, fails to be so vaccinated or immunized shall be fined
19 not more than \$25 or imprisoned not more than thirty days, or
20 both~~[.]~~ unless exempted under section 325-34."



1 SECTION 14. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun, before its effective date.

4 SECTION 15. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 16. This Act shall take effect upon its approval.

7

INTRODUCED BY:

Calvin K. Boy

BY REQUEST

JAN 18 2008



Report Title:

Vaccinations; Exemptions; Recommended Only; Student Medications

Description:

Prevents school from refusing a child to attend school if parent declines to administer psychotropic medication. Makes all vaccinations in the State non-compulsory but only recommended unless there is danger of an epidemic from any communicable disease. Allows exemptions from vaccinations on any grounds.

