

JAN 18 2019

A BILL FOR AN ACT

RELATING TO VACCINATIONS.

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

1 SECTION 1. The legislature finds that the United States
2 Department of Health and Human Services Advisory Committee on
3 Immunization Practices (ACIP) is a group of medical and public
4 health experts who develop vaccine recommendations for
5 consideration and approval by the federal Centers for Disease
6 Control and Prevention (CDC). The ACIP also publishes the
7 "General Best Practice Guidelines for Immunization" on how to
8 administer the list of ACIP recommended and CDC approved
9 vaccines.

10 The legislature also finds that under existing law, the
11 director of health, in consultation with the state
12 epidemiologist, may adopt, amend, or appeal the immunization
13 recommendations of the ACIP, including interim recommendations,
14 as they apply to all ACIP recommended vaccines.

15 However, the ACIP vaccine recommendations and
16 administration guidelines are not requirements or blanket state
17 mandates for public school attendance, as neither the ACIP nor



1 the CDC has regulatory power to mandate vaccinations or
2 immunizations in Hawai'i. With the exception of Hawai'i and
3 Rhode Island, every state in the nation establishes its own list
4 of vaccine requirements for school eligibility via the
5 legislative process, rather than through administrative rules.

6 Vaccination is a medical intervention that may present
7 certain risks or serious complications in some individuals.
8 Because of this risk potential, the decision to add any vaccine
9 requirement for public school attendance should remain subject
10 to legislative oversight. Furthermore, a current department of
11 health rules proposal to mandate all ACIP federal vaccine
12 recommendations and guidelines for public school children has
13 raised some public concerns. In light of these concerns, the
14 establishment of one mandatory set of vaccinations for all
15 public school children in Hawai'i may not be the most prudent
16 course of action at this time. The legislature notes that as of
17 2019, Hawai'i's public school vaccination and immunization
18 requirements are already in full alignment with the majority of
19 states across the country.

20 The purpose of this Act is to remove the authority of the
21 department of health to adopt, amend, or appeal vaccination and



1 immunization requirements for school, post- secondary school,
2 and child care facility attendance in the State of Hawai'i.

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

5 "(a) No child shall attend any school in the State unless
6 the child presents to the appropriate school official
7 documentation satisfactory to the department of health that the
8 child has received immunizations against communicable diseases
9 as required by [~~the department of health.~~] section 325-32."

10 SECTION 3. Section 302A-1155, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) A child may attend school provisionally upon
13 submitting written documentation from a licensed physician,
14 physician assistant, advanced practice registered nurse, or an
15 authorized representative of the department of health stating
16 that the child is in the process of receiving the required
17 immunizations. Further documentation showing that the required
18 immunizations have been completed shall be submitted to the
19 appropriate school official no later than three months after the
20 child first attends the school. If all of the required
21 immunizations cannot be completed within three months due to the



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1 length of the recommended minimum intervals between doses of a
2 particular vaccine [~~required by the department of health~~],
3 provisional attendance may be extended so long as the child's
4 parent or guardian provides documentation that appointments for
5 required immunizations have been made and that progress toward
6 completing the immunizations continues in accordance with the
7 requirements of [~~the department of health.~~] section 325-32."

8 SECTION 4. Section 302A-1162, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§302A-1162 Rules. (a) The department of health shall
11 adopt rules under chapter 91 relating to [~~immunization,~~]
12 physical examination, and tuberculin testing under sections
13 302A-1154 to 302A-1163. [~~Immunizations required, and the manner~~
14 ~~and frequency of their administration, shall conform with~~
15 ~~recognized standard medical practices. The list of diseases and~~
16 ~~minimum requirements for protection under sections 302A-1154 to~~
17 ~~302A-1163 may be revised whenever the department of health deems~~
18 ~~it necessary for the protection of public health.]~~

19 (b) The department shall establish by rule standards for
20 documentation of compliance with school health requirements
21 under sections 302A-1154 through 302A-1163.



1 (c) ~~[The department may adopt, amend, or repeal rules~~
2 ~~pursuant to chapter 91 to establish a list of specific vaccines~~
3 ~~that are available or may become available. Notwithstanding the~~
4 ~~notice, public hearing, and comment requirements of chapter 91~~
5 ~~and the provisions of chapter 201M, the director of health, in~~
6 ~~consultation with the state epidemiologist, may adopt, amend, or~~
7 ~~repeal as rules, the immunization recommendations of the United~~
8 ~~States Department of Health and Human Services, Advisory~~
9 ~~Committee on Immunization Practices, including interim~~
10 ~~recommendations, as they apply to the list of specific vaccines,~~
11 ~~if any, described in this subsection. The department shall make~~
12 ~~the adoption, amendment, or repeal of rules regarding United~~
13 ~~States Department of Health and Human Services, Advisory~~
14 ~~Committee on Immunization Practices immunization recommendations~~
15 ~~known to the public by:~~

- 16 (1) ~~Giving public notice of the substance of the proposed~~
17 ~~rules at least once statewide; and~~
- 18 (2) ~~Posting the full text of the proposed rulemaking~~
19 ~~action on the Internet as provided in section 91-2.6.]~~

20 The rules, when adopted, amended, or repealed pursuant to
21 chapter 91 as modified by this section, shall have the force and



1 effect of law. The department may defer the effective date of
2 adopted, amended, or repealed rules to allow sufficient time to
3 ensure compliance with the new, amended, or repealed rules."

4 SECTION 5. Section 302A-1163, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+] §302A-1163 [+] **Enforcement.** The department of health
7 shall administer and enforce the immunization and tuberculin
8 test requirements under sections 302A-1154 to 302A-1163[-] and
9 325-32."

10 SECTION 6. Section 325-32, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§325-32 **Immunization against infectious diseases.** (a)
13 [~~The department of health may adopt rules requiring and~~
14 ~~governing immunization]~~ Except as provided in section 325-34,
15 students shall be immunized against [~~typhoid fever,~~] pertussis
16 (whooping cough), diphtheria, tetanus, poliomyelitis, measles,
17 mumps, hepatitis B, rubella, haemophilus influenzae type B, and
18 [~~any other communicable disease, if a suitable immunizing agent~~
19 ~~is available for the disease and a need for immunization against~~
20 ~~it exists within the State.]~~ varicella. The manner and
21 frequency of administration shall conform with recognized



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1 standard medical practices. The department may also provide
2 vaccines and other immunizing agents to private and public
3 health care providers for administration to the general public.

4 (b) The department may [~~adopt, amend, or repeal rules~~
5 ~~pursuant to chapter 91 to establish~~] publish a list of specific
6 vaccines that are [~~available or may become available.~~
7 ~~Notwithstanding the notice, public hearing, and comment~~
8 ~~requirements of chapter 91 and the provisions of chapter 201M,~~
9 ~~the director of health, in consultation with the state~~
10 ~~epidemiologist, may adopt, amend, or repeal as rules, the~~
11 ~~immunization recommendations of the United States Department of~~
12 ~~Health and Human Services, Advisory Committee on Immunization~~
13 ~~Practices, including interim recommendations, as they apply to~~
14 ~~the list of specific vaccines, if any, described in this~~
15 ~~subsection. The department shall make the adoption, amendment,~~
16 ~~or repeal of rules regarding United States Department of Health~~
17 ~~and Human Services, Advisory Committee on Immunization Practices~~
18 ~~immunization recommendations known to the public by:~~

19 (1) ~~Giving public notice of the substance of the proposed~~
20 ~~rules at least once statewide, and~~



1 ~~(2) Posting the full text of the proposed rulemaking~~
2 ~~action on the Internet as provided in section 91-2.6.~~
3 ~~The rules, when adopted or amended pursuant to chapter 91 as~~
4 ~~modified by this section, shall have the force and effect of~~
5 ~~law. The department may defer the effective date of adopted,~~
6 ~~amended, or repealed rules to allow sufficient time to ensure~~
7 ~~compliance with the new, amended, or repealed rules.]~~
8 recommended for use according to the recommendations adopted by
9 the Centers of Disease Control and published in the Morbidity
10 and Mortality Weekly Report. The department may also publish
11 recommendations based on the United States Department of Health
12 and Human Services, Advisory Committee on Immunization Practices
13 General Best Practice Guidelines for Immunization for the manner
14 and frequency of vaccine administration."

15 SECTION 7. Section 325-33, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§325-33 Performance of vaccination and immunization.**
18 Vaccinations or immunizations required of any person under this
19 chapter shall be performed by duly licensed physicians or
20 paramedical personnel under their direction, advanced practice
21 registered nurses, physician assistants, or by authorized



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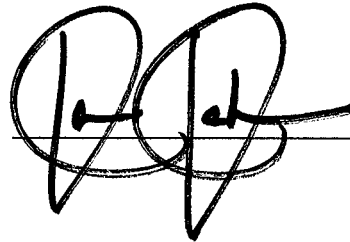
1 representatives of the department of health. A record of the
2 immunization shall be maintained by the physician, physician
3 assistant, or advanced practice registered nurse and shall be
4 available to the department of education for school entry
5 requirements and the department of health[-]; provided that the
6 department of education or the department of health shall secure
7 the informed written consent of the person or the person's
8 parent or guardian prior to the release of the immunization
9 record."

10 SECTION 8. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect upon its approval.

13

INTRODUCED BY:

A large, stylized handwritten signature in black ink, appearing to be 'BR' or similar, written over a horizontal line.

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Report Title:

Vaccinations; Immunization; Department of Health; Administrative Rules

Description:

Remove the authority of the department of health to adopt, amend, or appeal vaccination and immunization recommendations of the United States Department of Health and Human Services Advisory Committee on Immunization Practices.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

