



State of Louisiana
Louisiana Department of Health
Office of the Secretary

September 10, 2021

Via Statutorily Required Email

To: The Honorable Patrick Page Cortez, President, Louisiana Senate
The Honorable Clay Schexnayder, Speaker, Louisiana House of Representatives
The Honorable Chairman Fred H. Mills Jr., Senate Health & Welfare Committee
The Honorable Chairman Larry Bagley, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

Re: First Report: Proposed Amendments to LAC 51:II.701 – Immunization Schedule

Under the authority of the laws of the State of Louisiana and in accordance with the provisions of Chapter 6 of Title 36 of the Louisiana Revised Statutes of 1950, and with the Administrative Procedure Act, La. R.S. 49:950 *et seq.*, the secretary hereby gives notice that rulemaking procedures have been initiated to promulgate amendments to the rules governing the administration of Immunization Schedule, LAC 51:II.701.

- I. Copy of the rule as it is proposed after amendment, with new proposed language indicated by the underscored text and deleted language indicated by the strike-through type.

See attachment.

- II. A statement of the proposed action.

The proposed rulemaking will add the SARS-COV-2 vaccine to the list of age-appropriate required vaccines for daycare and school entry/participation in Louisiana once the vaccine is approved by the FDA.

- III. Specific citation of law authorizing promulgation of the rule.

R.S. 17:170, and R.S. 49:954, *et seq.*

IV. Circumstances which require the amendment of the rule.

Louisiana is currently one of the leaders in new COVID-19 cases in the United States. The SARS-COV-2 vaccine is currently approved for all persons over the age 12 & has proven to be a safe solution to the spread of COVID-19. The proposed rule will ensure that school age children who are legally allowed to get the vaccine will be vaccinated from COVID-19 before attending school, thereby preventing new outbreaks throughout the school systems and throughout Louisiana.

V. Statement of Fiscal and Economic Impact.

See attachment.

Please contact DeAnn Gruber, Ph.D., deann.gruber@la.gov, if you have any questions or require additional information about this matter.

Attachments (2)

Cc: Joseph Kanter, MD, MPH, State Health Officer
Kimberly Hood, JD, MPH, Assistant Secretary, LDH OPH
Melissa Mendoza, JD, MPH, Legislative and Regulatory Affairs Director, LDH OPH
Aliya Rubenstein, JD, MPH, Rulemaking Liaison, LDH OPH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT
Louisiana Department of Health
Office of Public Health
Public Health Immunization Requirements
LAC 51:701

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH/OPH), intends to amend and recodify parts of Chapter 7 of Title 51—Public Health Immunization Requirements.

This proposed rule will amend §701 of Chapter 7 of Title 51—Public Health Immunization Requirements. The proposed amendments add vaccines for SARS-CoV-2 to the list of required vaccinations for school entry to the extent that such vaccines are approved by the Food and Drug Administration for the individual's age, and also require such vaccines, and all potential boosters, on the same basis for school attendance.

§701. Immunization Schedule

[formerly paragraph 2:025]

A. The Office of Public Health (OPH) will determine the Louisiana immunization schedule, with appropriate immunizations for age using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service (USPHS). Compliance for school and day care center entry will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

1. vaccines which contain tetanus and diphtheria toxoids, including Diphtheria and Tetanus (DT), Diphtheria/Tetanus/Acellular Pertussis (DTaP), Tetanus and Diphtheria (Tdap), Tetanus Toxoid (TT) or combinations which include these components;
2. polio vaccine, including Inactivated Polio Vaccine (IPV), or combinations which include this component;
3. vaccines which contain measles antigen, including Measles, Mumps, and Rubella (MMR) and combinations which include these components;
4. vaccines which contain hepatitis antigen, including Hepatitis B (HepB), Hepatitis A (HepA), and combinations which include these components;
5. vaccines which contain varicella antigen, including varicella and combinations which include this component.
6. vaccines which contain meningococcal antigen and combinations which include this component.
7. vaccines for severe acute respiratory syndrome- coronavirus 2 (SARS-CoV-2, the virus which causes Coronavirus Disease 2019, also known as COVID-19), or

variants thereof, to the extent that such vaccines have been fully approved by the U.S. Food & Drug Administration (FDA) for the individual's age.

B. – D. . . .

E. Notwithstanding anything in this Section or Code to the contrary, and in addition to any other requirements of law, each individual entering or attending any school within the state in-person shall present to such school satisfactory evidence of having received vaccination(s) in accordance with the dosing schedule, including any booster doses recommended by the U.S. Centers for Disease Control and Prevention (CDC), set forth in the applicable Vaccine Information Statement (VIS) for severe acute respiratory syndrome-coronavirus 2 (SARS-CoV-2, the virus which causes COVID-19), or known variants thereof, to the extent that such vaccines have been fully approved by the U.S. Food & Drug Administration (FDA) for the individual's age. Satisfactory evidence that administration of such vaccinations is in progress will satisfy this requirement. Each school in this state shall prohibit in-person attendance of any individual not vaccinated as required by this subsection, unless the individual submits a written statement from a physician stating that such vaccination is contraindicated for medical reasons, or the individual or his parent or guardian submits a written dissent. Each school in this state shall maintain records showing compliance of each attending individual with the requirements of this subsection. As used in this subsection, the term "school" shall include, but is not limited to, elementary and secondary schools, kindergartens, colleges, universities, proprietary schools, vocation schools, and licensed day care centers.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2), R.S. 40:5(A) and R.S. 40:31.15. Also see R.S. 17:170, R.S. 22:1030, and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), amended LR 38:1252 (May 2012), amended by the Department of Health, Office of Public Health, LR 45:670 (May 2019), amended LR 46:590 (April 2020), amended by the Department of Health, Office of Public Health, LR 47:

Family Impact Statement

1. Will the proposed rule affect the stability of the family? Yes. The stability of the family will be enhanced by having more persons in the home vaccinated against SARS-CoV-2 and by protecting the health of the children.
2. Will the proposed rule affect the authority and rights of parents regarding the education and supervision of their children? No, parents will still be able to exempt their children from being vaccinated for religious, medical, or philosophical reasons.
3. Will the proposed rule affect the functioning of the family? No.
4. Will the proposed rule affect family earnings and family budget? No.
5. Will the proposed rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained the proposed rule? Yes.

Poverty Impact Statement

1. The effect on household income, assets, and financial security. The intent of this vaccination rule is to prevent the additional spreading of SARS-CoV-2 disease to other persons; therefore,

prevention of additional cases of the disease will help to keep other family members and the community at-large healthy and thus would be expected to help to prevent the depletion of household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. Other than attempting to keep school aged children healthy, there will be no effect on childhood development and preschool through postsecondary education development.

3. The effect on employment and workforce development. Persons who are able to prevent becoming infected with SARS-CoV-2 would be expected to remain healthy and such healthy persons would improve his or her chances to either remain employed or become employed. Keeping persons healthy would enhance the workforce as a whole.

4. The effect on taxes and tax credits. Keeping persons healthy by implementing this proposed rule should help to maintain taxes at a lower level since the fewer sick persons there are in the SARS-CoV-2 pandemic would be expected to check the total amount of funds necessary to maintain a healthy population. This, in turn, should help to prevent the need for additional taxation.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. There will be a positive effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance because less services will be needed.

Small Business Analysis

It is anticipated that the proposed rule will not have a significant adverse impact on small businesses as defined in the Small Business Protection Act.

Provider Impact Statement

The proposed rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments no later than October 28, 2021 to DeAnn Gruber, Bureau Director, Bureau of Infectious Diseases, Office of Public Health, 1450 Poydras St., Ste. 2136, New Orleans, LA, 70112 or faxed to (504) 568-7044.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary, ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:00 am on Monday, October 28, 2021, in Room 173 of the Bienville

Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 11, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to the Bienville Building's front security desk.

Joseph Kanter, MD, MPH
State Health Officer
and
Dr. Courtney N. Phillips
LDH Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: DeAnn Gruber Dept.: Louisiana Department of Health
Phone: 504-568-7474 Office: Office of Public Health

Return
Address: 1450 Poydras Street, Suite 2136
New Orleans, LA 70112 Rule Title: Immunization Requirements LAC 51:170

Date Rule Takes Effect: Upon Promulgation

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS

The Office of Public Health (OPH) will incur \$426 in expenses associated with the publication of this proposed rule change. The expenses will be paid with State General Fund.

There will also be a cost to the Medicaid program associated with reimbursing providers for administering vaccines to Medicaid patients. This total cost to the Medicaid program is dependent on the number of Medicaid patients that receive the vaccine. The Medicaid reimbursement rate is \$37.08 and paid for with 100% federal funds.

This proposed rule amends §701 of Chapter 7 of Title 51—Public Health Immunization Requirements. The proposed amendments add vaccines for SARS-CoV-2 to the list of required vaccinations for school entry to the extent that such vaccines are approved by the Food and Drug Administration for the individual's age. The rule also provides that each school in this state shall prohibit in-person attendance of any individual not vaccinated, unless the individual submits a written statement from a physician stating that such vaccination is contraindicated for medical reasons, or the individual or his/her parent or guardian submits a written dissent.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS


The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule may have an economic benefit to healthcare providers that administer vaccines and vaccine manufacturers, given that this is likely to be an increase demand for vaccinations. The proposed rule may have an increased cost to health insurance programs, including Medicaid, associated with reimbursing providers for the cost associated with administering the vaccines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT

The proposed rule is not anticipated to have an impact on existing competition or employment among vaccination providers.



Signature of Agency Head or Designee

Kimberly Hood, JD, MPH
Assistant Secretary, Office of Public Health
Typed Name & Title of Agency Head or Designee
9/7/2021

Date of Signature



Legislative Fiscal Officer or Designee

9/9/21

Date of Signature