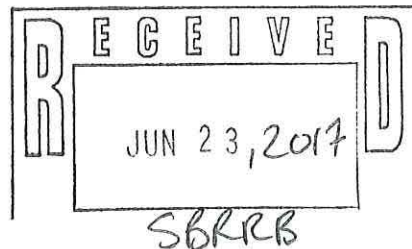


IV. New Business

A. Discussion and Action on Proposed Amendments
on HAR title 11, Chapter 157, **Examination and
Immunization**, promulgated by DOH



June 21, 2017



Ms. Dori Palcovich
Administrator
Small Business Regulatory Review Board
Department of Business, Economic Development & Tourism
No. 1 Capitol District Building, Room 436
250 South Hotel Street, 5th Floor
Honolulu, Hawaii 96813

Dear Ms. Palcovich:

Enclosed for your review are copies of the Small Business Impact Statement and proposed amendment of Hawaii Administrative Rules, Title 11, Chapter 157, "Examination and Immunization."

The purpose of the proposed amendment is to update the immunization requirements and immunization and examination requirements for school and post-secondary school attendance in Hawaii. The current regulations were last amended in August 2001, and are in need of revision to reflect current national immunization guidelines. The proposed draft also provides clarification in areas regarding definitions, provisional attendance at school, and documentation.

Any questions or concerns may be directed to Sarah Y. Park, M.D., F.A.A.P., Chief, Disease Outbreak Control Division, at 587-6845 or to sarah.park@doh.hawaii.gov.

Thank you for your time and attention to this matter.

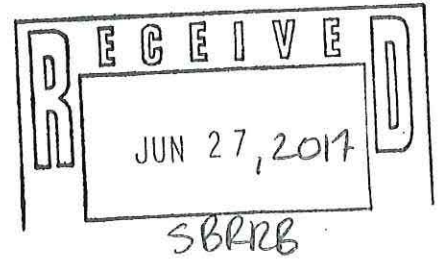
Sincerely,

A handwritten signature in cursive script that reads "Virginia Pressler".

Virginia Pressler, M.D.
Director of Health

Enclosures

**PRE-PUBLIC HEARING
SMALL BUSINESS IMPACT STATEMENT
TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD**
(Hawaii Revised Statutes §201M-2)



Department or Agency: Hawaii Department of Health
Administrative Rule Title and Chapter: Title 11, Chapter 157
Chapter Name: Examination and Immunization
Contact Person/Title: Sarah Y. Park, M.D., F.A.A.P, Chief, Disease Outbreak Control Division
Phone Number: 587-6845
E-mail Address: sarah.park@doh.hawaii.gov **Date:** June 21, 2017

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7? Yes ☒ No ☐ (If Yes, please provide webpage address and when and where rules may be viewed in person)

<http://www.health.hawaii.gov/opppd/department-of-health-administrative-rules-title-11/> : 1250 Punchbowl Street, Honolulu 96816 guard's desk 6/26/2017

(Please keep the proposed rules on this webpage until after the SBRRB meeting.)

I. Rule Description: New ☐ Repeal ☐ Amendment ☒ Compilation ☐

II. Will the proposed rule(s) affect small business? Yes ☒ No ☐ (If No, no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit enterprise consisting of fewer than one hundred full-time or part-time employees." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance? Yes ☐ No ☒ (If Yes, no need to submit this form.)

(e.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives.) HRS §201M-2(d)

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a)) Yes ☐ No ☒ (If Yes, no need to submit this form.)

* * *

If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

Small businesses that will be required to comply with the proposed rules include health care providers, child care centers, compulsory schools, and post-secondary schools. The proposed rules seek to require additional immunizations at the child care, kindergarten, and 7th grade school entry points; however, the proposed additions to the vaccination requirements are already routinely recommended and administered by health care providers. Therefore, health care providers should not be adversely affected by the proposed rules. Child care centers, compulsory schools, and post-secondary schools should not be adversely affected by the proposed rules. Child care centers, compulsory schools, and post-secondary schools already monitor their students' compliance with HAR Chapter 11-157 at the first school attendance and at attendance in kindergarten, 7th grade, and at post-secondary school entry. In the effort to assist schools and post-secondary schools with implementation of the updated requirements, the Department of Health has requested a delayed effective date for the revised requirements to ensure that training materials can be prepared and disseminated well in advance of the rules' effective date.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

Increased indirect costs associated with enhanced screening and recordkeeping may be incurred by some schools and post-secondary schools. The Department does not anticipate any increased costs associated with compliance to health care providers.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.

N/A

- b. Amount of the proposed fee or fine and the percentage increase.

N/A

- c. Reason for the new or increased fee or fine.

N/A

- d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).

N/A

3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

The monetary cost to the Department of Health Immunization Branch to implement the additional requirements has been determined to be approximately \$60,000 for the first year of implementation (e.g., development of training materials, educational campaign for school, physicians, and parents/guardians, school/post-secondary school training sessions) and \$5,000 per year thereafter for the cost of preparing and disseminating training/guidance materials for schools and post-secondary schools. No additionally imposed fees will result from implementation of the proposed rules.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.

To reduce the impact on providers, schools, and post-secondary schools, the Department of Health plans to implement a comprehensive training initiative to ensure that affected organizations understand the changes to the requirements and are able to screen records appropriately.

5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.

The Department of Health is unaware of less restrictive alternatives that could be implemented in lieu of the proposed rules.

6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.

7. How the agency involved small business in the development of the proposed rules.

The proposed rules were developed and reviewed in concert with the School Examination and Immunization Requirements Working Group, which comprises representatives from private compulsory and post-secondary institutions, the American Academy of Pediatrics—Hawaii Chapter, the Hawaii Association of Independent Schools, and Kaiser Permanente, as well as the Department of Education, the Department of Human Services, and Tuberculosis Control, Public Health Nursing, Disease Investigation, and Immunization Branches of the Department of Health.

- a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

School Examination and Immunization Requirements Working Group member organizations emphasized the need for a delayed effective date for the revised requirements to ensure that training materials can be prepared and disseminated well in advance of the rules' effective date. The Department concurred with this recommendation and a delayed effective date was incorporated into the proposed rules.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

The proposed school examination and immunization regulations are consistent with the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP) recommendations and are comparable to and in some instances less stringent than other states' school and post-secondary school immunization and examination requirements. The proposed rules are not more stringent than any comparable or related federal, state or county standards.

If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.

N/A

- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.

N/A

- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.

N/A

- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.

N/A

- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.

N/A

* * *

Small Business Regulatory Review Board / DBEDT

Phone: (808) 586-2594

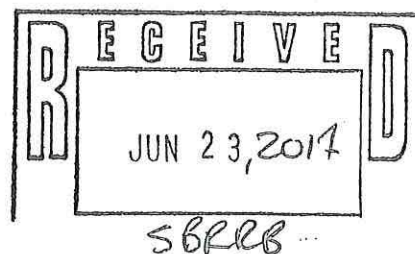
Email: dbedt.sbrrb@hawaii.gov

This Statement may be found on the
SBRRB Website at:

<http://dbedt.hawaii.gov/sbrrb/small-business-impact-statements-pre-and-post-public-hearing>

Rules Amending Title 11
Hawaii Administrative Rules

May 26, 2017



1. Chapter 157 of Title 11, Hawaii Administrative Rules, entitled "Examination and Immunization" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 157

EXAMINATION AND IMMUNIZATION

\$11-157-1	Purpose
\$11-157-2	Definitions
\$11-157-3	Immunization
\$11-157-3.05	Documentation of immunizations
\$11-157-3.1	Responsibility
\$11-157-3.2	Tuberculosis examination requirements
\$11-157-4	Performance of immunization; records
\$11-157-4.1	Immunization of indigents and other persons
\$11-157-5	Exemptions
\$11-157-6	Repealed
\$11-157-6.1	Health examination requirements
\$11-157-6.2	Provisional attendance
\$11-157-6.3	Notice of exclusion and exclusion
\$11-157-6.4	School and post-secondary school reporting and records
\$11-157-7	Penalties and remedies
\$11-157-7.1	Suspension and revocation; exclusion
\$11-157-8	Severability

§11-157-1

§11-157-1 **Purpose.** The purpose of this chapter is to establish immunization requirements and immunization and examination requirements for school and post-secondary school attendance in the State of Hawaii and to provide for the immunization of indigents and other high risk individuals. [Eff 11/5/81; am and comp 6/17/93; am and comp 10/23/97; comp 8/27/01; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32)(Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-2 **Definitions.** As used in this chapter:

"Certificate of TB examination" means a dated report of a tuberculosis examination including the information specified in subsections 11-157-3.2(c) to (e), on the stationery of a practitioner or the form of a health facility, health department, or school system, with the signature of [a] the practitioner or the [a unique] stamp or imprinted name of the department of health, the practitioner, or the licensed facility at which the practitioner practices[, or the department].

"Communicable tuberculosis" means tuberculosis in any form considered by the department to represent a risk of being transmitted to other individuals.

"Department" means the department of health of the State of Hawaii, or any authorized officer or agent of the department[.] of health.

"Director" means the director of health of the State of Hawaii or a duly authorized agent.

"Epidemic" means the occurrence in a community or region of an illness clearly in excess of normal expectancy, as determined by the department.

"Grace period" means the four day period prior to minimum required ages or intervals during which an immunization may still be considered valid.

"Immunization" means the process of administering a [specific] vaccine, toxoid, or other substance licensed by the United States Food and Drug

Administration to promote an immune response, including antibody production, in conformance with recognized standard medical practices.

"Immunizing agent" means a vaccine, toxoid, or other substance licensed by the United States Food and Drug Administration used to increase an individual's immunity to a disease. The Mantoux tuberculin test is not an immunizing agent.

"Mantoux tuberculin test" means an intradermal injection of five tuberculin units of Purified Protein Derivative (PPD) in 0.1 cc of sterile diluent, followed within forty-eight to seventy-two hours by recording of the palpable induration, with a positive reaction being 10 mm or greater in its transverse diameter.

"Outbreak" means the occurrence in a community or region of an illness clearly in excess of normal expectancy, as determined by the department.

"Physician" means a person licensed to practice medicine, [or] osteopathic medicine, or naturopathic medicine in any of the states or territories of the United States. A person whose license is on inactive status or who is not actively practicing shall not be deemed to be a physician for purposes of this chapter. Licensure or accreditation in chiropractic, homeopathy, acupuncture, or herbal healing do not qualify a person as a physician in this chapter.

"Post-secondary school" means any [adult education school, business school, trade school,] community college, college [or], university, or any school enrolling or registering students above the age of compulsory school attendance.

"Practitioner" means a physician, advanced practice registered nurse, or physician assistant licensed to practice in any of the states or territories of the United States. A physician, advanced practice registered nurse, or physician assistant whose license is on inactive status or who is not actively practicing shall not be deemed to be a

practitioner for the purposes of this chapter.

"Recognized standard medical practices" means in accordance with the United States Department of Health and Human Services', Advisory Committee on Immunization Practices (ACIP), General Best Practice Guidelines for Immunization (April 20, 2017), and future amendments that are adopted by the department.

"School" means any child care center (infant and toddler child care center, preschool, day care center, day nursery, Head Start program, [group child care home,] group child care center, or other similar units operating under any name), kindergarten, elementary, intermediate, middle, or secondary school, but excludes after-school programs, family child care homes, parent cooperatives, play groups, respite programs, group child care homes, and drop-in child care centers. All schools and post-secondary schools that conduct classes and activities exclusively on-line or electronically via remote learning are excluded from the requirements of this chapter.

"Student" means any child or adult enrolled in any school or any child or adult enrolled in any post-secondary school in the State. Any student enrolled or registered with a school or post-secondary school who is required to be physically present for any amount of time at school or post-secondary school campus or site must comply with this chapter. [Eff 11/5/81; am and comp 6/17/93; am and comp 10/23/97; am and comp 8/27/01; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-3 **Immunization.** (a) Immunizations against certain [specified] vaccine preventable diseases, including minimum spacing between doses, and other conditions governing acceptability of immunizations, are required as set forth in the following exhibits:

Exhibit A, ["Guide to Hawaii Pediatric Immunization Requirements (July 1, 2002).] "List of Required Vaccinations (July 1, 2018)."

Exhibit B, ["Guide to Hawaii Immunization & Examination Requirements for Schools (July 1, 2002).] "General Best Practice Guidelines for Immunization; Best Practices Guidance of the Advisory Committee on Immunization Practices (ACIP) (April 20, 2017)."

[Exhibit C, "Guide to Hawaii Post-Secondary School Immunization & Tuberculosis Examination Requirements (July 1, 2002)."]

(b) The United States Department of Health and Human Services', General Best Practice Guidelines for Immunization; Best Practices Guidance of the Advisory Committee on Immunization Practices (ACIP) (April 20, 2017), attached hereto as Exhibit B, are adopted as the requirements in the State of Hawaii for minimum age, required spacing between doses, and other conditions governing the acceptability of immunizations. Only those sections of Exhibit B that pertain to the requirements of this chapter, including the specific vaccinations listed in Exhibit A, shall apply.

(c) The Exhibits are located at the end of and are made a part of this chapter. If an exhibit conflicts with this chapter, this chapter shall prevail. Implementation of the amendments to this section shall occur on [July 1, 2002.] July 1, 2018.

(d) The director is authorized to suspend temporarily or amend any portion of the immunization requirements due to unforeseen circumstances. Affected schools and post-secondary schools will be notified in writing of any suspension or amendment. The notification will include details of the suspension or amendment, including the suspended or amended requirements, the anticipated duration of the suspension or amendment, and policies to be implemented during the suspension or amendment. [Eff 11/5/81; am and comp 6/17/93; am and comp 10/23/97; am and comp 8/27/01; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-3.05 **Documentation of immunizations.** (a) Documentation of immunizations shall indicate the department of health or the name of the practitioner responsible for administering or reviewing each immunization [and]. The documentation shall also bear the signature of [a] the practitioner or [a unique] the stamp or imprinted name of the department, the practitioner, or the licensed facility at which the practitioner practices.

(b) Documentation of immunizations shall include the complete date (recorded as month/day/year) the vaccine was administered. [A record with only the month and year of immunization] An immunization record without complete dates may be accepted for school or post-secondary school attendance if it can be determined that each vaccination complied with the minimum interval and age requirements. A grace period applies to each minimum age and interval. The grace period does not apply to the minimum interval between two doses of injectable or nasally administered live virus vaccines.

(c) Documentation of serologic evidence of immunity may be substituted for a record of immunizations for certain diseases as specified by the United States Department of Health and Human Services', Advisory Committee on Immunization Practices in its General Best Practice Guidelines for Immunization (April 20, 2017), attached hereto as Exhibit B. [in Exhibit B and Exhibit C.] The documentation shall include a laboratory report, [and certification] signed by a practitioner, certifying that the [report provides evidence of immunity] student is immune to the named [disease.] diseases.

(d) A signed, documented history of a diagnosis of varicella by a practitioner or a signed report by a practitioner that the practitioner has reviewed a reported history of varicella infection and has made a clinical judgment that the individual is immune to varicella [Documentation of a history of varicella (chicken pox) signed by a practitioner as specified in Exhibit B] may be substituted for a record of immunization with varicella vaccine.

(e) [Documentation of immunizations and evidence of immunity shall be kept with the student's health record.] Electronic versions of the documentation of immunizations, documentation of serologic evidence of immunity, and documentation of a history of varicella (chicken pox), including records maintained in the Hawaii Immunization Registry, are acceptable provided all information required by this section is recorded.

(f) Documentation of immunizations and evidence of immunity shall be maintained by schools and post-secondary schools either as a part of the student's health record, other school or post-secondary school record, or as part of an electronic record that complies with this section. [Eff and comp 8/27/01; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-1154 through 302A-1156, 321-1, 321-9, 321-11, 325-13, 325-32, 325-33, 325-37)

§11-157-3.1 **Responsibility.** (a) Each person is responsible for his or her own immunizations, except that each parent, guardian, or other person who has care, custody, or control of a minor, protected person, or dependent is responsible for the immunization and examination of his or her minor, protected person, or dependent.

(b) Each school and post-secondary school principal or administrator shall ensure that his or her school only admits students who comply with this chapter. [Eff and comp 10/23/97; am and comp 8/27/01; comp] (Auth: HRS §§302A-1162, 321-9, 325-13) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38, 325-71 through 325-84)

§11-157-3.2 **Tuberculosis examination requirements.** (a) Each student shall be examined for infection with tuberculosis by a practitioner or the

department within the twelve months prior to first attending school in Hawaii, except as noted in subsection (b). The tuberculosis examination requirements for attendance at post-secondary school are as provided in chapter 11-164[.] or as those rules are amended and renumbered by the department.

(b) A student first attending school before twelve months of age shall obtain and present a certificate of TB examination prior to age fourteen months or be excluded from school until a certificate of TB examination is obtained and presented.

(c) A certificate of TB examination shall report the results of a Mantoux tuberculin test, including the dates of administration and reading (recorded as month/day/year) and the transverse diameter of induration in millimeters, and shall bear the signature of the practitioner or [unique] the stamp or imprinted name of the department of health, the practitioner, or the licensed facility at which the practitioner practices[, or the department]. If the transverse diameter is equal to or greater than 10 mm., the certificate shall also report the result of a chest x-ray, including the date and [location] facility at which the x-ray was obtained. If the reader of the x-ray or practitioner cannot determine that the student is free from communicable TB, then no certificate shall be issued [and the case shall be immediately referred to the department of health.], and the reader or practitioner shall immediately refer the case to the department as specified in Exhibit A of chapter 11-156, Hawaii Administrative Rules.

(d) A person providing written documentation of a prior positive Mantoux tuberculin test result which includes the signature, stamp, or imprinted name of the practitioner or clinic administering the test, the dates of administration and reading and the diameter of induration in millimeters may have a certificate issued based on a chest x-ray without a repeat Mantoux tuberculin test, provided that the certificate shall

contain the required information about the positive Mantoux tuberculin test.

(e) A person with a chest x-ray consistent with tuberculosis shall submit to further examination or treatment as deemed necessary by the department to exclude or treat a diagnosis of communicable tuberculosis before issuance of a valid TB certificate.

(f) A certificate of TB examination issued within 12 months before first attendance at school in Hawaii shall not expire for purposes of school attendance and may be used for transfer or attendance at all schools and post-secondary schools in Hawaii.

(g) A certificate of TB examination is required for school attendance. Every school and post-secondary school shall maintain a copy of each student's certificate of TB examination while the student is enrolled, shall make that copy available for inspection by the department, and shall transmit a copy of the certificate together with the student's health record to the school or post-secondary school to which a student transfers. [Eff and comp 10/23/97; am and comp 8/27/01; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-11, 325-71 through 325-84)

§11-157-4 **Performance of immunization; records.**

(a) Any immunization required by these rules shall be performed by a practitioner or other medical personnel under the direction of a practitioner, or by [the] department[.] representatives. The manner and frequency of immunization administration shall conform with these rules and recognized standard medical practices.

(b) [Records of any examination or immunization required by these rules shall be maintained by the practitioner or the department and shall be available for inspection and copying by the department.] Records of any immunizations required by these rules that are

not administered in the United States may be accepted if reviewed and signed or stamped by a practitioner.

(c) Documentation of any examination or immunization required by these rules shall be maintained by the practitioner or the department and shall be available for inspection and copying by the department. [Eff: 11/5/81; am and comp 6/17/93; am and comp 10/23/97; am and comp 8/27/01; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11(22), 325-13, 325-32) (Imp: HRS §§302A-1154, 302A-1159, 302A-1160, 302A-1162, 302A-1163, 321-9, 321-11, 325-13, 325-32, 325-33, 325-35)

§11-157-4.1 **Immunization of indigents and other persons.** (a) The department shall provide for free immunization for the indigent and medically indigent for their protection against the diseases required by these rules. In this section, "indigent" and "medically indigent" have the meanings defined in HRS section 325-38.

(b) The department may provide for free immunization of high risk individuals to interrupt transmission or limit morbidity from communicable diseases, or to protect employees of the department from communicable diseases which they may encounter in the performance of their duties. [Eff and comp 10/23/97; comp 8/27/01; comp] (Auth: HRS §§302A-1162, 321-9, 321-11(22), 325-13, 325-32, 325-38) (Imp: HRS §§302A-1158, 325-38)

§11-157-5 **Exemptions.** (a) Medical exemptions from the requirements for specific immunizing agents shall be granted upon certification by a physician [on the physician's professional stationery] in a form or format specified by the department, that an immunization is medically contraindicated due to a stated cause, for a specific period of time[.], in conformance with recognized standard medical practices. The [original certificate] form shall be provided to

the exempt person or parent or guardian. [A copy] Copies of the [certificate] form shall be maintained in the student's school health record[.] or in the post-secondary school student's record. Issuing physicians shall forward a copy of the form to the department. Reports of such [certificates] forms in a format specified by the department shall also be submitted to the department by each school[.] and post-secondary school.

(b) A religious exemption shall be granted to a student whose parent, custodian, guardian, or other person in loco parentis certifies that the person's religious beliefs prohibit the practice of immunization. Requests for religious exemptions based on objections to specific immunizing agents will not be granted. Students who have reached the age of majority shall apply on their own behalf. The certification shall be retained in the student's health record[.] or in the post-secondary school student's record. Reports of such exemptions in a format specified by the department shall be submitted to the department by each school[.] and post-secondary school.

(c) If at any time, the director determines that there is the danger or presence of an outbreak or epidemic from any of the communicable diseases for which immunization is required under this chapter, the exemption from immunization against such disease shall not be recognized and inadequately immunized students shall be excluded from school or post-secondary school until the director has determined that the presence or danger of the outbreak or epidemic no longer exists.

[Eff 11/5/81; am and comp 6/17/93; am and comp 10/23/97; am and comp 8/27/01; am and comp

] (Auth: HRS §§302A-1162, 321-9, 321-11(22), 325-13, 325-32) (Imp: HRS §§302A-1156, 302A-1157, 321-1, 321-9, 321-11, 325-13, 325-32, 325-34, 325-35)

§11-157-6 REPEALED. [R 10/23/97]

§11-157-6.1

§11-157-6.1 **Health examination requirements.** (a)

Each student shall present a record of his or her physical examination by a practitioner as specified in subsection (b) before the student first attends school. The examination shall occur within 12 months before the date of first [school] attendance[.] at school in Hawaii. The record shall be transferred to subsequent schools attended by the student, and re-examination is not required.

(b) Results of the examination shall be reported to the school on a form or in a format approved by the department. The report of physical examination shall be signed by the practitioner performing the examination.

(c) The report of physical examination shall be kept with the student's health record. [Eff and comp 10/23/97; am and comp 8/27/01; am and comp

] Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-6.2 **Provisional attendance.** (a) A

student who does not have evidence of all of the required immunizations [or a report of physical examination] may attend school or post-secondary school provisionally upon submitting written evidence from a practitioner or the department stating that the student is in the process of receiving required immunizations [or physical examination]. A student who does not have a report of physical examination may attend school provisionally upon submitting written evidence from a practitioner stating that the student is in the process of receiving the physical examination. A physical examination is not required for post-secondary school attendance. An appointment notice from a practitioner's office or the department shall be recognized as written evidence. A student without written evidence shall not be allowed to attend school or post-secondary school.

(b) [If a preschool or K-12 student does not complete the required immunizations or examination within three months of the date of provisional entry, the school shall notify the parent by dated, written notice of exclusion that the student will be excluded from the school beginning 30 calendar days after the date of the notice.] The provisional attendance period shall be no longer than three months after the date of provisional attendance to a school and no longer than 45 days after the date of provisional attendance to a post-secondary school.

(c) [Beginning on the school day 30 calendar days after the date of notice of exclusion, the student shall be prohibited from attending school unless and until complete documentation covering the required immunizations and physical examination is provided to the school.] A student who fails to keep a scheduled appointment with their practitioner or the department during the provisional attendance period may attend school or post-secondary school only upon submitting a new appointment notice from a practitioner's office or the department. Failure to keep a scheduled appointment or transferring schools or post-secondary schools during the provisional attendance period does not extend the provisional attendance period past the periods listed in subsection (b).

(d) If all of the required immunizations cannot be completed within [three months] the provisional attendance period due to the required minimum intervals between doses or other medical necessity, the school or post-secondary school may extend provisional attendance [may be extended] as long as evidence is provided that appointments have been made to complete the required immunizations. If a student whose provisional attendance period has been extended fails to keep a scheduled appointment, he or she shall be excluded from school or post-secondary school until evidence that the required immunizations have been obtained is presented to the school[.] or post-secondary school.

(e) [If a post-secondary school student does not complete the required immunizations within 45 days of

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the date of provisional entry, the school shall exclude the student from all school activities until documentation that the required immunizations have been obtained is provided to the school.] Provisional attendance may be suspended by the department when there is a danger or presence of an outbreak or epidemic from any of the communicable diseases for which immunization is required under this chapter until the director has determined that the presence or danger of the outbreak or epidemic no longer exists. [Eff and comp 10/23/97; am and comp 8/27/01; am and comp

] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-1155 through 302A-1157, 302A-1159, 302A-1160, 302A-1162, 321-1, 321-9, 321-11, 325-13, 325-32, 325-35, 325-36)

§11-157-6.3 [School reporting and records.]

Notice of exclusion and exclusion. (a) [Each school shall report to the department by October 10 and January 10 of each year the names of all students who have been provisionally admitted, have been excluded for failure to comply fully with the immunization or examination requirements in this chapter, and who have medical or religious exemptions. This report shall include the types of immunizations and dose numbers which are incomplete for each of these students and shall be in a format as specified by the department.] If a student does not complete the required immunizations or examination within three months of the date of provisional attendance, the school shall notify the parent by dated, written notice of exclusion that the student will be excluded from the school beginning 30 calendar days after the date of the notice.

(b) [School and post-secondary school records documenting compliance with this chapter shall be made available for inspection and copying by the department upon request.] Beginning on the school day 30 calendar days after the date of notice of exclusion, the school shall prohibit the student from attending school until complete documentation covering the required

immunizations and physical examination is provided to the school.

(c) If a post-secondary school student does not complete the required immunizations within 45 days of the date of provisional attendance, the post-secondary school shall exclude the student from attending classes and all post-secondary school activities until documentation that the required immunizations have been obtained is provided to the post-secondary school.

[Eff and comp 10/23/97; am and comp 8/27/01; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-1155, 302A-1157, 302A-1159, 302A-1160, 302A-1162, 321-1, 321-9, 321-11, 325-13, 325-32, 325-35, 325-36)

§11-157-6.4 School and post-secondary school reporting and records. (a) Each school shall report to the department by October 10th and January 10th of each school year the names of all students who have been provisionally admitted, who have been excluded for failure to comply fully with the immunization or examination requirements in this chapter, or who have medical or religious exemptions. This report shall include the types of immunizations and dose numbers which are incomplete for each of these students and shall be in a format as specified by the department. Each school is required to submit the report even if all students have met the immunization and examination requirements.

(b) School and post-secondary school records documenting compliance with this chapter shall be made available for inspection and copying by the department upon request. [Eff and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-7 Penalties and remedies. Penalties and remedies for failure to comply with these rules are

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provided in sections 321-18, 321-20, 325-14, and 325-37, HRS. [Eff 11/5/81; am and comp 6/17/93; comp 10/23/97; comp 8/27/01; comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 321-18, 321-20, 325-13, 325-14, 325-32 through 325-38, 325-71 through 325-78)

§11-157-7.1 Suspension and revocation; exclusion.

(a) Valid [TB certificates,] certificates of TB examination, immunization records, physical examination records, and certificates of medical or religious exemption (collectively "documents") may be suspended or revoked if a preponderance of the evidence shows that a document contains a material inaccuracy, misrepresentation, or is fraudulent.

(b) A [child or] student shall be excluded from school or post-secondary school if any document required by this chapter is suspended or revoked. [Eff and comp 10/23/97; am and comp 8/27/01; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-8 Severability. If any provision of this chapter, or its application to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby." [Eff 11/5/81; comp 6/17/93; comp 10/23/97; comp 8/27/01; comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38, 325-71 through 325-78)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 11-157, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor; provided that the implementation of the amendments to section 11-157-3 shall take effect on July 1, 2018.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

Virginia Pressler, M.D.
Director of Health

APPROVED AS TO FORM:

Deputy Attorney General

Exhibit A
List of Required Vaccinations
(July 1, 2018)

Hawaii law allows the Director of Health, in consultation with the State Epidemiologist, to adopt, amend or appeal as rules, the immunization recommendations of the United States Department of Health and Human Services, Advisory Committee on Immunization Practices, including interim recommendations, as they apply to the listed vaccines indicated below. **The United States Department of Health and Human Services' Advisory Committee on Immunization Practices' General Best Practice Guidelines for Immunization (April 20, 2017), attached as Exhibit B, is adopted as the requirements in the State of Hawaii for minimum age, required spacing between doses, and other conditions governing the acceptability of immunizations for these listed vaccines.**

Table 1 – List of Pediatric Vaccinations Required for Children in the State of Hawaii*
DTaP [Diphtheria-Tetanus-acellular Pertussis]
<i>Haemophilus influenzae</i> type b (Hib)
Hepatitis A
Hepatitis B
Influenza
MMR [Measles (Rubeola)-Mumps-Rubella]
Pneumococcal Conjugate Vaccine (PCV)
Polio (IPV [Inactivated Poliovirus Vaccine])
Rotavirus
Varicella (chickenpox)

*The immunizations specified in Table 1 are required for children born in Hawaii after January 1, 1998, and all children born elsewhere after January 1, 1998 who become residents of Hawaii. Hawaii-born children are required to receive these immunizations within twenty-four months of their date of birth, and children born elsewhere who become residents are required to receive them within two years of first residence, unless medically contraindicated.

Table 2 – List of Vaccinations Required for Child-Care Center Attendance
DTaP [Diphtheria-Tetanus-acellular Pertussis] or DTP [Diphtheria-Tetanus-Pertussis]
<i>Haemophilus influenzae</i> type b (Hib)
Hepatitis A
Hepatitis B
MMR [Measles (Rubeola)-Mumps-Rubella]
Pneumococcal Conjugate Vaccine (PCV)
Polio (IPV [Inactivated Poliovirus Vaccine] or OPV [Oral Poliovirus Vaccine])
Varicella (chickenpox)

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Table 3 – List of Vaccinations Required for Kindergarten – 12th Grade Attendance
DTaP [Diphtheria-Tetanus-acellular Pertussis] or DTP [Diphtheria-Tetanus-Pertussis]
Hepatitis A
Hepatitis B
HPV[†] [Human Papillomavirus Vaccine]
MCV[†] [Meningococcal Conjugate Vaccine]
MMR [Measles (Rubeola)-Mumps-Rubella]
Polio (IPV [Inactivated Poliovirus Vaccine] or OPV [Oral Poliovirus Vaccine])
Tdap[†] [Tetanus-diphtheria-acellular pertussis]
Varicella (chickenpox)

[†]Only required for students first entering a Hawaii school in 7th grade or higher.

Table 4 – List of Vaccinations Required for 7th Grade Attendance[‡]
HPV [Human Papillomavirus Vaccine]
MCV [Meningococcal Conjugate Vaccine]
Tdap [Tetanus-diphtheria-acellular pertussis]

[‡]In addition to meeting the K-12 Immunization Requirements upon first school attendance listed in Table 3, all students must show evidence of receiving these immunizations prior to 7th grade attendance.

Table 5 – List of Vaccinations Required for Post-Secondary School Attendance
MCV^{**} [Meningococcal Conjugate Vaccine]
MMR[¶] [Measles (Rubeola)-Mumps-Rubella]
Tdap [Tetanus-diphtheria-acellular pertussis]
Varicella (chickenpox)

^{**}First-year students living in on-campus housing only.

[¶]Students born prior to 1957 are exempt from the MMR vaccination requirement.