

DEPARTMENT OF HEALTH

Amendment and Compilation of Chapter 11-157
Hawaii Administrative Rules

September 5, 2018

SUMMARY

1. §§11-157-1 to 11-157-5 are amended.
2. §§11-157-6.1 to 11-157-6.3 are amended.
3. A new §11-157-6.4 is added.
4. §11-157-7.1 is amended.
5. Chapter 11-157 is compiled.

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 clearance 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§11-157-6	Repealed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, post-secondary school, and child care facility reporting and records
§11-157-7	Penalties and remedies
§11-157-7.1	Suspension and revocation; exclusion
§11-157-8	Severability

§11-157-1 Purpose. The purpose of this chapter is to establish immunization requirements and immunization and examination requirements for school, post-secondary school, and child care facility 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:

"Attend" or "attendance" means a student or child is physically present at school, post-secondary school, or child care facility after admission or enrollment.

"Child" or "children" means a minor or minors who attend a child care facility in the State. Any child who attends a child care facility who is physically present for any amount of time at a child care facility shall comply with this chapter.

"Child care facility" has the same meaning as defined in section 346-151, HRS.

"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 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.

"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, 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 does not qualify a person as a physician in this chapter.

"Post-secondary school" means any community college, college, 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, and any future amendments that are adopted by the department.

"School" means a congregate setting for educational purposes, for example, kindergarten, elementary, intermediate, middle, or secondary school.

"Student" means any minor or adult attending any school or any post-secondary school in the State. Any student who attends a school or post-secondary school who is required to be physically present for any amount of time at school or post-secondary school, shall 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 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, "List of Required Vaccinations (July 1, 2020)."

Exhibit B, "General Best Practice Guidelines for Immunization; Best Practices Guidance of the Advisory Committee on Immunization Practices (ACIP)."

(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), 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, 2020.

(d) The director is authorized to suspend temporarily or amend any portion of the immunization requirements due to unforeseen circumstances. The director shall notify affected schools, post-secondary schools, or child care facilities in writing of any suspension or amendment. The notification shall 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. The documentation shall also bear the signature of the practitioner or 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. An immunization record without complete dates may be accepted for school, post-secondary school, or child care facility 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, attached hereto as Exhibit B. The documentation shall include a laboratory report, signed by a practitioner, certifying that the student or child is immune to the named 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 may be substituted for a record of immunization with varicella vaccine.

(e) 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, post-secondary schools, and child care facilities, either as a part of the student's health record, post-secondary school student's record, or child care facility child's 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, post-secondary school, and child care facility principal or administrator shall ensure that his or her school or facility only admits students or children who comply with this chapter. [Eff and comp 10/23/97; am and comp 8/27/01; am and 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 325-78)

§11-157-3.2 Tuberculosis clearance requirements.

Each student or child shall comply with the department's tuberculosis rules as they apply to school, post-secondary school, and child care facility attendance. [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 325-78)

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

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

(b) 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 section 325-38, HRS.

(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; am and 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 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 form shall be provided to the exempt person or parent or guardian. Copies of the form shall be maintained in the student's school health record, in the post-secondary school student's record, or in the child care facility child's record. Issuing physicians shall forward a copy of the form to the department. Reports of such forms in a format specified by the department shall also be submitted to the department by each school, post-secondary school, and child care facility.

(b) A religious exemption shall be granted to a student or child 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, in the post-secondary school student's record, or in the child care facility child's record. Reports of such exemptions in a format specified by the department shall be submitted to the department by each school, post-secondary school, and child care facility.

(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 or children shall be excluded from school, post-secondary school, or child care facilities until the director has determined that the presence or danger of the outbreak or epidemic no longer exists.

(d) After-school programs, family child care homes, parent cooperatives, play groups, respite programs, group child care homes, and drop-in child care centers are excluded from the requirements of this chapter. All schools and post-secondary schools that conduct classes and activities exclusively on-line or electronically via remote learning are also excluded from the requirements of 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(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 Health examination requirements.

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

(b) Pursuant section 302A-1159(b), HRS, every student entering seventh grade shall present a record of his or her physical examination (pre-seventh grade physical examination) by a practitioner performed within twelve months before the first date of attendance in seventh grade.

(c) Results of the examination shall be reported to the school or child care facility 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.

(d) The report of physical examination shall be kept with the student's health record or child care facility child's 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 or child who does not have evidence of all of the required immunizations may attend school, post-secondary school, or a child care facility provisionally upon submitting written evidence from a practitioner or the department stating that the student or child is in the process of receiving

required immunizations. A student or child who does not have a report of physical examination may attend school or a child care facility provisionally upon submitting written evidence from a practitioner stating that the student or child is in the process of receiving the physical examination. The failure to provide a report of the pre-seventh grade physical examination will not result in provisional attendance unless the student is first entering a Hawaii school in the seventh grade. 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 or child without written evidence shall not be allowed to attend school, post-secondary school, or a child care facility.

(b) The provisional attendance period shall be no longer than three months after the date of provisional attendance to a school or child care facility and no longer than forty-five days after the date of provisional attendance to a post-secondary school.

(c) A student or child who fails to keep a scheduled appointment with their practitioner or the department during the provisional attendance period may attend school, post-secondary school, or a child care facility only upon submitting a new appointment notice from a practitioner's office or the department. Failure to keep a scheduled appointment or transferring schools, post-secondary schools, or child care facilities 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 the provisional attendance period due to the required minimum intervals between doses or other medical necessity, the school, post-secondary school, or child care facility may extend provisional attendance as long as evidence is provided that appointments have been made to complete the required

immunizations. If a student or child whose provisional attendance period has been extended fails to keep a scheduled appointment, he or she shall be excluded from school, post-secondary school, or child care facilities until evidence that the required immunizations have been obtained is presented to the school, post-secondary school, or child care facility.

(e) 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 Notice of exclusion and exclusion.

(a) If a student or child does not complete the required immunizations or examination within three months of the date of provisional attendance, the school or child care facility shall notify the parent or adult student by dated, written notice of exclusion that the student or child will be excluded from the school or child care facility beginning thirty calendar days after the date of the notice.

(b) Beginning on the school or business day thirty calendar days after the date of notice of exclusion, the school or child care facility shall prohibit the student or child from attending school or a child care facility until complete documentation covering the required immunizations and physical examination is provided to the school or child care facility.

(c) If a post-secondary school student does not complete the required immunizations within forty-five calendar 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, post-secondary school, and child care facility reporting and records. (a) Each school and child care facility shall report to the department by October 10th and January 10th of each school year the names of all students or children 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 or children and shall be in a format as specified by the department. Each school and child care facility is required to submit the report even if all students or children have met the immunization and examination requirements.

(b) School, post-secondary school, and child care facility 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 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 certificates of TB clearance, 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 student or child shall be excluded from school, post-secondary school, or child care facilities 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)

DEPARTMENT OF HEALTH

Amendments to and compilation of chapter 11-157, Hawaii Administrative Rules, on the Summary Page dated September 5, 2018 were adopted on _____, following a public hearing held on _____, after public notice was given in the Honolulu Star Advertiser, The Hawaii Tribune Herald, The Maui News, and The Garden Island News on _____.

They 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 occur on July 1, 2020.

BRUCE S. ANDERSON, Ph.D.
Director of Health

DAVID Y. IGE
Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed