

Colorado Immunization Manual

SECTION 15 Colorado Rules, Regulations, Laws



Colorado Immunization Manual

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SECTION 15

Colorado Rules, Regulations, Laws

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**Colorado Department
of Public Health
and Environment**

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
Disease Control and Environmental Epidemiology Division**

6 CCR 1009-2

**RULES PERTAINING TO THE INFANT IMMUNIZATION PROGRAM,
THE VACCINES FOR CHILDREN PROGRAM, AND
THE IMMUNIZATION OF STUDENTS ATTENDING SCHOOL**

(Promulgated by the State Board of Health)

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(Definition H and Table 1 footnotes)**

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Disease Control and Environmental Epidemiology Division

6 CCR 1009-2

STATE BOARD OF HEALTH RULES PERTAINING TO THE INFANT IMMUNIZATION PROGRAM, THE VACCINES FOR CHILDREN PROGRAM, AND THE IMMUNIZATION OF STUDENTS ATTENDING SCHOOL

I. Definitions

- A. Emancipated student - Any student who has reached age 18; a lawfully married child of any age; a child 15 years of age or older who is managing his/her own financial affairs and who is living separate and apart from his/her parent.
- B. Indigent child - Any child whose parent cannot afford to have the child immunized or if emancipated, who cannot himself/herself afford immunization and who has not been exempted.
- C. College student - Any student who is enrolled for one or more classes at a college or university and who is physically present at the institution. This includes students who are auditing classes but does not include persons taking classes by correspondence only.
- D. Child - Any student less than 18 years of age.
- E. Parent - The person or persons with parental or decision-making responsibilities for a child.
- F. School official - The school's chief executive officer or any person designated by him/her as his/her representative.
- G. Student - Any person enrolled in a Colorado school as defined in I(H).
- H. School - A public, private, or parochial nursery school, day care center, child care facility, family child care home, foster care home, Head Start program, kindergarten, or elementary or secondary school through grade twelve, or a college or university. "School" does not include a public services short-term child care facility as defined in section 26-6-102 (6.7), C.R.S., a guest child care facility as defined in section 26-6-102 (5), C.R.S., a ski school as defined in section 26-6-103.5 (6), C.R.S., or college or university courses which are offered off-campus; or are offered to nontraditional adult students, as defined by the governing board of the institution; or are offered at colleges or universities which do not have residence hall facilities.
- I. In-process student - A student may be considered in-process if:
 - 1. Within fourteen days after receiving direct personal notification that the certificate is not up-to-date according to the requirements of the state board of health, the parent or emancipated student submits documentation that the next required immunization has been given and a signed written plan for obtaining the remaining required immunizations. The scheduling of immunizations in the written plan shall follow medically recommended minimum intervals consistent

with the U.S. Public Health Service Advisory Committee on Immunization Practices, American Academy of Pediatrics, or the vaccine manufacturer's package insert statement. If the student does not fulfill the plan, the student shall be suspended or expelled from school for non-compliance as noted in Section 25-4-907, C.R.S. If the next dose is not medically indicated within fourteen days, then the medically approved minimum intervals would apply.

2. With regards to college or university students as defined in I(C) and I(H), the student must present to the appropriate official of the school either (i) a signed written authorization requesting local health officials to administer required immunizations or (ii) a plan for receipt of the required immunization or the next required immunization in a series within either 30 days or the medically approved minimum interval. If this does not occur, the college or university student will not be allowed to register for the current term or session. Such written authorizations and plans must be signed by one parent or guardian or the emancipated student or the student eighteen years of age or older.
- J. Dose – A measured quantity of an immunizing agent; quantity and frequency of administration determined by recognized health authorities and the manufacturer of each agent. (Partial, “split,” half or fractionated “doses” are not acceptable for certification.)
- K. Practitioner – A duly licensed physician or other person who is permitted and otherwise qualified to administer vaccines under the laws of this state.
- L. Infant – Any child up to twenty-four months of age or any child eligible for vaccination and enrolled under the Colorado Medical Assistance Act, article 4 of title 26, C.R.S.
- M. Immunization Tracking System – A comprehensive immunization tracking system established by the Department of Public Health and Environment pursuant to Section 25-4-1705(E), C.R.S.
- N. Vaccines for Children (VFC) Program – A federally funded program for the purchase and distribution of pediatric vaccines to program-registered providers for the immunization of vaccine-eligible children.
- O. VFC-Eligible Children – Federally purchased vaccines under the VFC Program will be made available to children who are 18 years of age or younger and who are eligible for Medicaid or who are not insured under any form of health insurance or who are not insured with respect to the vaccine and who are administered pediatric vaccines by a Federally Qualified Health Center (FQHC) or in a rural health clinic or who are American Indians/Alaskan Natives, as defined in section 4 of the Indian Health Care Improvement Act.

II. Exemptions From Immunization

It is the responsibility of the parent(s) to have his or her child immunized unless the child is exempted. A student may be exempted from receiving the required immunizations in the following manner:

- A. Medical exemption - By submitting to the student's school a Certificate of Immunization with the statement of medical exemption signed by a physician licensed to practice medicine or osteopathic medicine in any state or territory of the United States indicating that the physical condition of the student is such that immunizations would endanger his/her life or health or is medically contraindicated due to other medical conditions.

- B. Religious exemption - By submitting to the student's school a Certificate of Immunization with the statement of religious exemption signed by the parent(s) or the emancipated student indicating that the parent(s) or emancipated student is an adherent to a religious belief whose teachings are opposed to immunizations.
- C. Personal belief exemption - By submitting to the student's school a Certificate of Immunization with the statement of personal exemption signed by the parent(s) or the emancipated student indicating that the parent(s) or emancipated student has a personal belief that is opposed to immunizations.
- D. In the event of an outbreak of disease against which immunization is required, no exemption or exception from immunization shall be recognized and exempted persons may be subject to exclusion from school and quarantine.
- E. All information distributed to the parent(s) by school districts regarding immunization shall inform them of their rights under II(A-C).
- F. If the school chooses to use the immunization tracking system to monitor compliance with the school law, and the parent(s) or student submits an exemption, the school must submit the exemption information to the immunization tracking system.
- G. A student who is 11 years of age or greater may be exempt from the three-dose requirement for hepatitis b vaccination if the student provides written documentation from a licensed physician that the student, when aged 11 to 15 years, has received two doses of Recombivax HB using the adult dose (1.0 ml containing 10 µg of hepatitis b surface antigen), with the second dose given 4 to 6 months after the first dose. The specific name of the vaccine, the exact dose of antigen per injection, and the dates of administration must be included as part of the documentation.

III. Minimum Immunization Requirements

The immunizations required for compliance with the school entry immunization law are outlined in Tables 1 and 2. To attend school, a student must have an age- or grade-appropriate Certificate of Immunization. Initial certification does not exempt a student from meeting subsequent age or grade requirements. The minimum number of doses required by level of school/age of student are listed in Table 1. The timetable for implementation of requirements by specific grade and school year for varicella vaccine and tetanus, diphtheria, and pertussis vaccine are listed in Table 2. Grades K to 5 and Grades 6 to 12 are grouped in Table 1, but a student in a particular grade within these groups is not required to have the minimum number of doses of varicella vaccine and tetanus, diphtheria, and pertussis vaccine prior to the school year listed in Table 2.

IV. Examination and Audit of School Immunization Records

The Department of Public Health and Environment's representative shall have the right to audit and verify records to determine compliance with the law. Discrepancies found through audits shall be corrected by school officials, and any student not in full compliance shall be suspended or expelled from school according to the following rules:

- A. If the parent(s) or emancipated student was informed of the deficiencies in the student's Certificate of Immunization pursuant to paragraph I(I)(1) of the rules, the student shall be suspended or expelled pursuant to Section 25-4-907, C.R.S.
- B. If the parent(s) or emancipated student was not informed by a direct personal notification of the immunizations required and alternatives for compliance with the law, the school shall notify the parent(s) or emancipated student within 7 calendar days of the finding and

the student shall: a) provide proof of immunization within fourteen days, b) continue as an in-process student, c) verify that the student is exempt, or d) the student shall be suspended or expelled pursuant to Section 25-4-907, C.R.S.

V. Denial of Attendance

- A. A student who is: not certified, not in-process, not appropriately vaccinated for his/her age, or not exempt shall be denied attendance in accordance with the law.
- B. If the student or child is attending a school which is not subject to the School Attendance Law, Section 22-33-101 et seq., C.R.S., the school officials shall take appropriate action to deny attendance to the student or child in accordance with that school's procedures or contract with the student; the college student will not be allowed to register for the current term or session. No indigent child shall be excluded, suspended, or expelled from school unless the immunizations have been available and readily accessible to the child at public expense.

VI. Certification of Immunization

- A. An official Certificate of Immunization or an Alternate Certificate of Immunization that has been approved by the Department of Public Health and Environment shall include one of the following forms of documentation that include the dates and types of immunizations administered to a student or the dates and types of exemption taken:
 - 1. A paper document that includes information transferred from the records of a licensed physician, registered nurse, or public health official; or
 - 2. An electronic file or hard copy of an electronic file provided to the school directly from the immunization tracking system established pursuant to Section 25-4-1705(5)(e), C.R.S. or from a software program approved by the Department of Public Health and Environment.
- B. Any immunization record (original or copy) provided by a physician licensed to practice medicine or osteopathic medicine in any state or territory of the United States, registered nurse, or public health official may be accepted by the school official as certification of immunization if the information is transferred to an official Certificate of Immunization and verified by the school official. The Department of Public Health and Environment shall provide guidance to schools, licensed physicians, registered nurses, and local health agencies regarding the acceptability of vaccination received outside the United States.
- C. A physician, nurse, or school health authority shall sign the appropriate section of the Certificate of Immunization when the child has met all immunization requirements.
- D. Schools shall have on file an official Certificate of Immunization for every student enrolled. The Certificate of Immunization will be kept apart from other school records. When a student withdraws, transfers, or is promoted to a new school, the school official shall return the Certificate of Immunization to the parent(s) or emancipated student upon request or transfer it with the student's school records to the new school. Upon a college or university student's request, the Certificate of Immunization shall be forwarded as specified by the student.

VII. Reporting of Statistical Information

School officials shall participate in annual school assessments completed on site by the Department of Public Health and Environment staff or designated local health agency

representatives. On December 1 of each school year, college and university officials shall send an Immunization Summary Report to the Department of Public Health and Environment.

VIII. Notification of Public Health Department

- A. Section 25-4-907, C.R.S. requires that if a child is suspended or expelled from school for failure to comply with the immunization law, the school official shall notify the state or local department of health or public health nurse who shall then contact the parent(s) or emancipated student in an effort to secure compliance so that the child may be re-enrolled in school.
- B. Upon receipt of an immunization referral from the school the public health department or public health nurse shall contact the parent(s) of the referred child or the emancipated student himself/herself to offer immunization and to secure compliance with the school immunization law in order that the child may provide a completed Certificate of Immunization to the school and in the case of an expelled or suspended child, be re-enrolled in school.

IX. Purchase, Storage, and Distribution of Vaccines

As necessary to comply with Section 25-4-905, C.R.S., the Department of Public Health and Environment shall assure the purchase, storage, and distribution of the vaccines included in, but not limited to, Table 1 of these rules.

X. Contract Requirements for Providers, Hospitals, and Health Care Clinics to be an Agent of the Department of Public Health and Environment for the Purposes of the Immunization Program

- A. To be an agent of the Department of Public Health and Environment for the purposes of administering immunizations to infants, children, and students, a provider, hospital, or health care clinic must agree to provide each patient receiving a vaccine, or the parent or legal guardian if such patient is an unemancipated minor, a copy of the currently approved vaccine information statement.
- B. The Department of Public Health and Environment shall make such requirements as are necessary to assure the confidentiality and security of information in an immunization tracking system operated pursuant to Section 25-4-1705(5)(e)(I)(H), C.R.S and Section 25-4-1705(7), C.R.S.

XI. Fee for the Administration, Reporting, and Tracking of Vaccine

This rule applies to immunizations that are listed in Table 1 and any other vaccine recommended by the Advisory Committee on Immunization Practices of the U.S. Department of Health and Human Services or the American Academy of Pediatrics. Such immunizations may be given either (i) by private practitioners enrolled in the VFC Program to VFC-eligible children or (ii) by public health agencies to any infant, child, or student or (iii) by a FQHC or rural health clinic to any infant, child, or student that is VFC-eligible or not insured with respect to vaccine.

- A. Private practitioners: The fee that private practitioners may charge the Medicaid program for administering, reporting, and tracking an immunization provided to a Medicaid-enrolled infant, child, or student shall be a maximum of six dollars and fifty cents per vaccine.

- B. Private practitioners: For vaccine administered to VFC-eligible but non-Medicaid-enrolled infants, children, or students, a private practitioner may charge the parent up to fourteen dollars and seventy-four cents per dose.
- C. Public health agencies: For vaccine administered to Medicaid-enrolled infants, children, or students, a public health agency may charge the Medicaid program two dollars per vaccine administered for administering, reporting, and tracking the immunization.
- D. Public health agencies: For vaccine administered to non-Medicaid enrolled infants, children, or students, a public health agency may charge the parent up to fourteen dollars and seventy-four cents per dose.
- E. A vaccine recipient may not be denied vaccine provided by the Centers for Disease Control and Prevention federal grant or the VFC Program because of inability to pay the administrative fee.

Table 1. MINIMUM NUMBER OF DOSES REQUIRED FOR CERTIFICATE OF IMMUNIZATION

| | Level of School/Age of Student | | | | | | | | | | | |
|--|--------------------------------|-----------------------------|-----------------------------|------------------------------|-------------------------------|-------------------------------|-------------------------------|----------------------------|--------------------------|------------------------------------|--------------------------------------|------------------|
| | Child Care 2 to 3 mos | Child Care 4 to 5 mos | Child Care 6 to 7 mos | Child Care 8 to 11 mos | Child Care 12 to 14 mos | Child Care 15 to 17 mos | Child Care 18 to 23 mos | Preschool 2 to 4 yrs | K Entry 4 to 6 yrs | Grades K to 5 5 to 10 yrs | Grades 6 to 12 11 to 18 yrs | College |
| VACCINE ^a | | | | | | | | | | | | |
| Pertussis/ Tetanus/ Diphtheria | 1 | 2 | 3 | 3 | 3 | 4 | 4 | 4 | 5/4 ^b | 5/4 ^{b,c} | 6 ^{c,d} | |
| Polio ^e | 1 | 2 | 3 | 3 | 3 | 3 | 3 | 3 | 4/3 ^f | 4/3 ^f | 4/3 ^f | |
| Measles/ Mumps/ Rubella ^g | | | | | 1 | 1 | 1 | 1 | 2 ^h | 2 ^h | 2 ^h | 2 ^{h,i} |
| Haemophilus influenzae type b (Hib) ^j | 1 | 2 | 2 | 3/2 | 3/2 | 3/2/1 | 3/2/1 | 3/2/1 | | | | |
| Pneumococcal Conjugate ^k | 1 | 2 | 3/2 | 3/2 | 4/3/2 | 4/3/2 | 4/3/2 | 4/3/2 | | | | |
| Hepatitis B ^l | 1 | 2 | 2 | 2 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | |
| Varicella ^m | | | | | 1 | 1 | 1 | 1 | 2 ⁿ | 2/1 ⁿ | 2/1 ^{n,o} | |
| Meningococcal | | | | | | | | | | | | p |

^a Vaccine doses administered \leq 4 days before the minimum interval or age are to be counted as valid.

^b Five doses of pertussis, tetanus, and diphtheria vaccines are required at school entry in Colorado unless the 4th dose was given at \geq 48 months (i.e., on or after the 4th birthday) in which case only 4 doses are required.

^c For students \geq 7 years who have not had the required number of pertussis doses, no new or additional doses are required. Any student \geq 7 years at school entry in Colorado who has not completed a primary series of 3 appropriately spaced doses of tetanus and diphtheria vaccine may be certified after the 3rd dose of tetanus and diphtheria vaccine (or tetanus, diphtheria, and pertussis vaccine if 10 or 11 years) if it is given $>$ 6 months after the 2nd dose.

^d The student must meet the minimum prior requirement for the 4th or 5th doses of diphtheria, tetanus, and pertussis vaccine and have 1 tetanus, diphtheria, and pertussis vaccine dose.

^e For polio, in lieu of immunization, written evidence of a laboratory test showing immunity is acceptable.

- f Four doses of polio vaccine are required at school entry in Colorado unless the 3rd dose was given \geq 48 months (i.e., on or after the 4th birthday) in which case only 3 doses are required. Four valid doses are a complete series regardless of age at completion.
- g For measles, mumps, and rubella, in lieu of immunization, written evidence of a laboratory test showing immunity is acceptable for the specific disease tested. The 1st dose of measles, mumps, and rubella vaccine must have been administered at \geq 12 months of age (i.e., on or after the 1st birthday) to be acceptable.
- h The 2nd dose of measles vaccine or measles, mumps, and rubella vaccine must have been administered at least 28 calendar days after the 1st dose.
- i Measles, mumps, and rubella vaccine is not required for college students born before January 1, 1957.
- j The number of Hib vaccine doses required depends on the student's current age and the age when the vaccine was administered. If any dose was given \geq 15 months, the Hib vaccine requirement is met. For students who began the series < 12 months, 3 doses are required of which at least 1 dose must have been administered at \geq 12 months (i.e., on or after the 1st birthday). If the 1st dose was given at 12 to 14 months, 2 doses are required. If the current age is \geq 5 years, no new or additional doses are required.
- k The number of pneumococcal conjugate vaccine doses depends on the student's current age and the age when the 1st dose was administered. If the 1st dose was administered at: (i) \leq 6 months, 3 doses are required at 6 to 14 months and 4 doses are required at 15 to 23 months with 1 dose administered on or after the 1st birthday; (ii) 7 to 11 months, 2 doses are required at 6 to 14 months and 3 doses are required at 15 to 23 months with 1 dose on or after the 1st birthday; (iii) 12 to 23 months, 2 doses are required. If the current age is \geq 2 years, no new or additional doses are required.
- l For hepatitis B, in lieu of immunization, written evidence of a laboratory test showing immunity is acceptable. The second dose should be administered at least 4 weeks after the first dose, and the third dose should be administered at least 16 weeks after the first dose and at least 8 weeks after the second dose. The final dose is to be administered at 24 weeks of age (6 months of age) and is not to be administered prior to that age.
- m For varicella, written evidence of a laboratory test showing immunity or a documented disease history from a health care provider is acceptable. The 1st dose of varicella vaccine must have been administered at \geq 12 months of age (i.e., on or after the 1st birthday) to be acceptable.
- n If the second dose of varicella vaccine was administered to a child < 13 years, the minimum interval between dose 1 and dose 2 is 3 months, however, if the second dose is administered at least 28 days following the first dose, the second dose does not need to be repeated. For a child who is \geq 13 years, the second dose of varicella vaccine must have been administered at least 28 calendar days after the 1st dose. See Table 2 for the school years/grade levels that the 1st and 2nd doses of varicella will be required.
- o If the 1st dose of varicella vaccine was administered at 13 years, 2 doses are required, separated by a minimum of 4 weeks or 28 calendar days.
- p Information concerning meningococcal disease and the meningococcal vaccine shall be provided to each new student or if the student is under 18 years, to the student's parent or guardian. If the student does not obtain a vaccine, a signature must be obtained from the student or if the student is under 18 years, the student's parent or guardian indicating that the information was reviewed.

Table 2. TIMETABLE FOR IMPLEMENTATION OF REQUIREMENTS FOR SELECTED IMMUNIZATIONS FOR GRADES K TO 12

Refer to Table 1 for the minimum number of doses required for a particular grade level. Table 2 shows the year of implementation for a requirement from Table 1 and is restricted to varicella vaccine dose 1 (Var1) and dose 2 (Var2) and tetanus, diphtheria, and pertussis vaccine (Tdap). Requirements and effective dates for other vaccines are listed in Table 1. In this table, after a vaccine is required for grades K to 12, it is no longer shown, but the requirements listed in Table 1 continue to apply.

| School Year | Grade Level | | | | | | | | | | | | |
|-------------------------------------|-------------|------|------|------|------|------|--------------|--------------|--------------|--------------|--------------|------|------|
| | K | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 2007-08 | Var2 | Var1 | Var1 | Var1 | Var1 | Var1 | Tdap Var1 | Var1 | | | Tdap | | |
| 2008-09 | Var2 | Var2 | Var1 | Var1 | Var1 | Var1 | Tdap Var1 | Tdap Var1 | Var1 | | Tdap | Tdap | |
| 2009-10 | Var2 | Var2 | Var2 | Var1 | Var1 | Var1 | Tdap Var1 | Tdap Var1 | Tdap Var1 | Var1 | Tdap | Tdap | Tdap |
| 2010-11 | Var2 | Var2 | Var2 | Var2 | Var1 | Var1 | Tdap Var1 | Tdap Var1 | Tdap Var1 | Tdap Var1 | Tdap Var1 | Tdap | Tdap |
| 2011-12 | Var2 | Var2 | Var2 | Var2 | Var2 | Var1 | Var1 | Var1 | Var1 | Var1 | Var1 | Var1 | |
| 2012-13 (Var1 required for K to 12) | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var1 | Var1 | Var1 | Var1 | Var1 | Var1 | Var1 |
| 2013-14 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | | | | | | |
| 2014-15 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | | | | | |
| 2015-16 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | | | |
| 2016-17 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | | |
| 2017-18 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | |
| 2018-19 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 |
| 2019-20 (Var2 required for K to 12) | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 | Var2 |

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SUBJECT: RULES PERTAINING TO INFANT IMMUNIZATION PROGRAM

Note: Allowable fees for the administration, recording, and tracking of vaccine are listed in the *Rules of the Colorado Board of Health Pertaining to the Infant Immunization Program*. A copy of these rules can be downloaded from the Colorado Immunization Website at www.cdphe.state.co.us/dc/immunization

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SUBJECT: STATUTES REGARDING SCHOOL ENTRY

Colorado Revised Statutes, 1989, Repl. Vol, Part 9.

SCHOOL ENTRY IMMUNIZATION

25-4-901—Definitions.

As used in this part 9, unless the context otherwise requires:

- (1) "Certificate of immunization" means one of the following forms of documentation that include the dates and types of immunizations administered to a student:
 - (a) A paper document that includes information transferred from the records of a licensed physician, registered nurse, or public health official; or
 - (b) An electronic file or a hard copy of an electronic file provided to the school directly from the immunization tracking system, established pursuant to section 25-4-2403.
- (1.5) "Child" means any student less than eighteen years of age.
- (2) (a) "School" means, except as otherwise provided in paragraph (b) of this subsection (2), a public, private, or parochial nursery school, day care center, child care facility, family child care home, foster care home, head start program, kindergarten, elementary or secondary school through grade twelve, or college or university.
 - (b) "School" does not include:
 - (I) A public services short-term child care facility as defined in section 26-6-102 (6.7), C.R.S.;
 - (I.5) A guest child care facility as defined in section 26-6-102 (5), C.R.S., or a ski school as defined in section 26-6-103.5 (6), C.R.S.; or
 - (II) College or university courses of study that are offered off-campus, or are offered to nontraditional adult students, as defined by the governing board of the institution, or are offered at colleges or universities that do not have residence hall facilities.
- (3) "Student" means any person enrolled in a Colorado school as defined in subsection (2) of this section.

25-4-902—Immunization prior to attending school.

- (1) Except as provided in section 25-4-903, no child shall attend any school in the state of Colorado on or after the dates specified in section 25-4-906 (4) unless he or she has presented the following to the appropriate school official:
 - (a) An up-to-date certificate of immunization from a licensed physician, a licensed advanced practice nurse, or authorized representative of the department of public health and environment or local health department stating that the child has

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SUBJECT: STATUTES REGARDING SCHOOL ENTRY

received immunization against communicable diseases as specified by the state board of health, based on recommendations of the advisory committee on immunization practices of the United States department of health and human services or the American academy of pediatrics; or

- (b) A written authorization signed by one parent or guardian or an authorization signed by the emancipated child requesting that local health officials administer the immunizations.
- (c) (Deleted by amendment, L. 97, p. 408, § 1, effective July 1, 1997.)
- (2) If the student's certificate of immunization is not up-to-date according to the requirements of the state board of health, the parent or guardian or the emancipated student or the student eighteen years of age or older shall submit to the school, within fourteen days after receiving direct personal notification that the certificate is not up-to-date, documentation that the next required immunization has been given and a written plan for completion of all required immunizations. The scheduling of immunizations in the written plan shall follow medically recommended minimum intervals approved by the state board of health. If the student begins but does not continue or complete the written plan, he or she shall be suspended or expelled pursuant to this part 9.
- (3) Notwithstanding the provisions of subsection (1) of this section, a school shall enroll a student who is in out-of-home placement within five school days after receiving the student's education information and records as required in section 22-32-138, C.R.S., regardless of whether the school has received the items specified in subsection (1) of this section. Upon enrolling the student, the school shall notify the student's legal guardian that, unless the school receives the student's certificate of immunization or a written authorization for administration of immunizations within fourteen days after the student enrolls, the school shall suspend the student until such time as the school receives the certificate of immunization or the authorization.

25-4-902.5—Immunization prior to attending a college or university.

- (1) Except as provided in section 25-4-903, no student shall attend any college or university in the state of Colorado on or after the dates specified in section 25-4-906 (4) unless such student can present to the appropriate official of the school a certificate of immunization from a licensed physician, a licensed advanced practice nurse, or authorized representative of the department of public health and environment or local health department stating that the student has received immunization against communicable diseases as specified by the state board of health or a written authorization signed by one parent or guardian or the emancipated student or the student eighteen years of age or older requesting that local health officials administer the immunizations or a plan signed by one parent or guardian or the emancipated student or the student eighteen years of age or older for receipt by the student of the required inoculation or the first or the next required of a series of inoculations within thirty days.
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SUBJECT: STATUTES REGARDING SCHOOL ENTRY

- (2) (Deleted by amendment, L. 94, p. 695, §2, effective April 19, 1994.)
- (3) (a) Each college and university in Colorado may work to create a tuberculosis screening process with the goal of making the process as uniform as possible for all colleges and universities in the state. The department of public health and environment may attend and participate in any meetings held by the universities and colleges regarding the screening process. The screening process may include a tuberculosis risk questionnaire, a tuberculosis education policy, a clinical review process for each completed questionnaire, and follow-up testing procedures for students who are determined to be at risk for tuberculosis. On or before January 1, 2009, the colleges and universities that work to create a tuberculosis screening process pursuant to this subsection (3) shall report to the health and human services committees of the senate and the house of representatives, or their successor committees, regarding any legislative recommendations necessary regarding a tuberculosis screening process.
- (b) This subsection (3) shall not apply to a university or college that provides course work solely online.

25-4-903—Exemptions from immunization.

- (1) (Deleted by amendment, L. 97, p. 409, § 2, effective July 1, 1997.)
 - (2) It is the responsibility of the parent or legal guardian to have his or her child immunized unless the child is exempted pursuant to this section. A student shall be exempted from receiving the required immunizations in the following manner:
 - (a) By submitting to the student's school certification from a licensed physician or advanced practice nurse that the physical condition of the student is such that one or more specified immunizations would endanger his or her life or health or is medically contraindicated due to other medical conditions; or
 - (b) By submitting to the student's school a statement of exemption signed by one parent or guardian or the emancipated student or student eighteen years of age or older that the parent, guardian, or student is an adherent to a religious belief whose teachings are opposed to immunizations or that the parent or guardian or the emancipated student or student eighteen years of age or older has a personal belief that is opposed to immunizations.
 - (3) The state board of health may provide, by regulation, for further exemptions to immunization based upon sound medical practice.
 - (4) All information distributed to parents by school districts regarding immunization shall inform them of their rights under subsection (2) of this section.
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SUBJECT: STATUTES REGARDING SCHOOL ENTRY

25-4-904—Rules and regulations—immunization rules—rule-making authority of state board of health.

- (1) The state board of health shall establish rules and regulations for administering this part 9. Such rules and regulations shall establish which immunizations shall be required and the manner and frequency of their administration and shall conform to recognized standard medical practices. Such rules and regulations may also require the reporting of statistical information and names of noncompliers by the schools. The department of public health and environment shall administer and enforce the immunization requirements.
- (2) All rule-making authority granted to the state board of health under the provisions of this article is granted on the condition that the general assembly reserves the power to delete or rescind any rule of the board. All rules promulgated pursuant to this subsection (2) shall be subject to sections 24-4-103 (8) (c) and (8) (d) and 24-4-108, C.R.S.

25-4-905. Immunization of indigent children.

- (1) The local health department, a public health or school nurse under the supervision of a licensed physician, or the department of public health and environment in the absence of a local health department or public health nurse shall provide, at public expense to the extent that funds are available, immunizations required by this part 9 to each child whose parents or guardians cannot afford to have the child immunized or, if emancipated, who cannot himself or herself afford immunization and who has not been exempted. The department of public health and environment shall provide all vaccines necessary to comply with this section as far as funds will permit. Nothing in this section shall preclude the department of public health and environment from distributing vaccines to physicians, advanced practice nurses, or others as required by law or the rules of the department. No indigent child shall be excluded, suspended, or expelled from school unless the immunizations have been available and readily accessible to the child at public expense.
- (2) Notwithstanding any other provision of this part 9 to the contrary, programs and services that provide immunizations to children for communicable diseases shall be available to a child regardless of his or her race, religion, gender, ethnicity, national origin, or immigration status.

25-4-906—Certificate of immunization—forms.

- (1) The department of public health and environment shall provide official certificates of immunization to the schools, private physicians, and local health departments. Upon the commencement of the gathering of epidemiological information pursuant to section 25-4-2403 to implement the immunization tracking system, such form shall include a notice that informs a parent or legal guardian that he or she has the option to exclude his or her infant's, child's, or student's immunization information from the immunization tracking system created in section 25-4-2403. Any immunization record
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provided by a licensed physician, registered nurse, or public health official may be accepted by the school official as certification of immunization if the information is transferred to the official certificate of immunization and verified by the school official.

- (2) Each school shall maintain on file an official certificate of immunization for every student enrolled. The certificate shall be returned to the parent or guardian or the emancipated student or student eighteen years of age or older when a student withdraws, transfers, is promoted, or otherwise leaves the school, or the school shall transfer the certificate with the student's school record to the new school. Upon a college or university student's request, the official certificate of immunization shall be forwarded as specified by the student.
- (3) The department of public health and environment may examine, audit, and verify the records of immunizations maintained by each school.
- (4) All students enrolled in any school in Colorado on and after August 15, 1979, shall furnish the required certificate of immunization or shall be suspended or expelled from school. Students enrolling in school in Colorado for the first time on and after July 1, 1978, shall provide a certificate of immunization or shall be excluded from school except as provided in section 25-4-903.

25-4-907—Noncompliance.

- (1) A school official of each school shall suspend or expel from school, pursuant to the provisions of section 22-33-105, C.R.S., or the provisions established by the school official of a college or university or private school, any student not otherwise exempted under this part 9 who fails to comply with the provisions of this part 9. No student shall be suspended or expelled for failure to comply with the provisions of this part 9 unless there has been a direct personal notification by the appropriate school authority to the student's parent or guardian or to the emancipated student or the student eighteen years of age or older of the noncompliance with this part 9 and of such person's rights under sections 25-4-902, 25-4-902.5, and 25-4-903.
 - (2) In the event of suspension or expulsion of a student, school officials shall notify the state department of public health and environment or local department of health. An agent of said department shall then contact the parent or guardian or the emancipated student or student eighteen years of age or older in an effort to secure compliance with this part 9 in order that the student may be reenrolled in school.
 - (3) Any student expelled for failure to comply with the provisions of this part 9 shall not be included in calculating the dropout rate for the school from which such student was expelled or the school district in which such student was enrolled prior to being expelled. Such student shall be included in the annual report of the number of expelled students prepared pursuant to section 22-33-105, C.R.S.
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25-4-908—When exemption from immunization not recognized.

If at any time there is, in the opinion of the state department of public health and environment or local department of health, danger of an epidemic from any of the communicable diseases for which an immunization is required pursuant to the rules and regulations promulgated pursuant to section 25-4-904, no exemption or exception from immunization against such disease shall be recognized. Quarantine by the state department of public health and environment or local department of health is hereby authorized as a legal alternative to immunization.

25-4-909—Vaccine-related injury or death—limitations on liability.

- (1) The general assembly finds, determines, and declares that immunization of the population of this state is vital to the health of Colorado citizens and has demonstrated such finding by requiring such immunization pursuant to the provisions of sections 25-4-901 to 25-4-908.
 - (2) No person who administers a vaccine which is required under the provisions of this part 9 to an infant or child whose age is greater than twenty days shall be held liable for injuries sustained pursuant to such vaccine if:
 - (a) The vaccine was administered using generally accepted clinical methods;
 - (b) The vaccine was administered according to the schedule of immunization as published by the communicable disease control administration of the federal government; and
 - (c) There were no clinical symptoms nor clinical history present under which prudent health care professionals would not have administered such vaccine.
 - (3) An action shall not be maintained for a vaccine-related injury or death until action for compensation for such alleged injury has been exhausted under the terms of the "National Childhood Vaccine Injury Act of 1986," 42 U.S.C. section 300aa-10 to 300aa-33, as such law is from time to time amended.
 - (4) If the injury or death which is sustained does not fall within the parameters of the vaccine injury table as defined in 42 U.S.C. section 300aa-14, as enacted on November 14, 1986, a rebuttable presumption is established that the injury sustained or the death was not due to the administration of vaccine. Such presumption shall be overcome by a preponderance of the evidence.
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SUBJECT: INFANT IMMUNIZATION ACT

INFANT IMMUNIZATION ACT

25-4-1701—Short title.

This part 17 shall be known and may be cited as the “Infant Immunization Act.”

25-4-1702—Legislative declaration.

- (1) The general assembly hereby finds, determines, and declares that vaccine preventable diseases represent a serious public health threat to the people of this state. It has been well documented that vaccines are an effective way to save lives and prevent debilitating disease. Vaccines are among the most cost-effective components of preventive medical care because for every dollar spent on immunization, ten dollars are saved in later medical expenses.
- (2) The general assembly further finds, determines, and declares that the rate of routine immunization among preschool children appears to be falling steadily. Therefore, it is the purpose of this part 17 to fully immunize all infants, subject to available appropriations, at a level that is age-appropriate as determined by the board of health.
- (3) The general assembly further finds, determines, and declares that the inability of some parents to personally take their children to health care professionals for the purpose of immunization contributes to the significant number of children who have not been immunized on a timely basis in accordance with this part 17. Therefore, it is the further purpose of this part 17 to provide an alternative method by which such children may be immunized without circumventing parental authority and control.

25-4-1703—Definitions.

As used in this part 17, unless the context otherwise requires:

- (1) “Board of health” means the state board of health.
 - (2) “Department” means the state department of public health and environment.
 - (3) “Infant” means any child up to twenty-four months of age or any child eligible for vaccination and enrolled under the “Colorado Medical Assistance Act,” article 4 of title 26, C.R.S.
 - (3.5) “Minor” means any child under eighteen years of age.
 - (4) “Practitioner” means a duly licensed physician or other person who is permitted and otherwise qualified to administer vaccines under the laws of this state.
 - (5) “Vaccine” means such vaccines as are determined by the board of health to be necessary to conform to recognized standard medical practices. Such term includes, but is not limited to, the following vaccines:
 - (a) Diphtheria-tetanus-pertussis (DTP);
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- (b) Polio: Oral polio vaccine (OPV) or inactivated polio vaccine (IPV);
- (c) Measles-mumps-rubella (MMR);
- (d) Haemophilus influenzae type B conjugate vaccines (HIB).

25-4-1704—Infant immunization program—delegation of authority to immunize minor.

- (1) There is hereby created in the department an infant immunization program which is established to immunize infants against vaccine preventable disease. Such program shall be implemented on and after January 1, 1993.
 - (2) Every parent, legal guardian, or person vested with legal custody or decision-making responsibility for the medical care of a minor, or person otherwise responsible for the care of an infant residing in this state, shall be responsible for having such infant vaccinated in compliance with the schedule of immunization established by the board of health; except that, failure to vaccinate a child in accordance with this subsection (2) shall not constitute sufficient grounds for any insurance company to deny a claim submitted on behalf of a child who develops a vaccine preventable disease.
 - (2.5) (a) Subject to the provisions of this subsection (2.5), a parent, legal guardian, person vested with legal custody of a minor or decision-making responsibility for the medical care of a minor, or such other adult person responsible for the care of a minor in this state, other than any employee of a licensed child care center in which the minor is enrolled, may delegate, verbally or in writing, that person's authority to consent to the immunization of a minor to a stepparent, an adult relative of first or second degree of kinship, or an adult child care provider who has care and control of the minor. Any immunization administered pursuant to a delegation of authority under this subsection (2.5) shall be administered only at a health care clinic, hospital, office of a private practitioner, or county public health clinic.
 - (b) If a parent, legal guardian, person vested with legal custody of a minor or decision-making responsibility for the medical care of a minor, or other adult person responsible for the care of a minor in this state verbally delegates his or her authority to consent to the immunization of a minor under this subsection (2.5), the person to whom such authority is thereby delegated shall confirm the verbal delegation in writing and shall verbally relay any relevant health history to the administering practitioner. The practitioner administering the vaccination shall include the written confirmation in the minor's medical record. If a parent, legal guardian, person vested with legal custody of a minor or decision-making responsibility for the medical care of a minor, or other adult person responsible for the care of a minor in this state delegates his or her authority to consent to the immunization of a minor under this subsection (2.5) in writing, such writing shall include the relevant health history, and the practitioner administering the vaccination shall include a copy of the written delegation of authority in the minor's medical record.
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- (c) A person who consents to the immunization of a minor pursuant to a delegation of authority under this subsection (2.5) shall provide the practitioner with sufficient and accurate health information about the minor for whom the consent is given and, if necessary, sufficient and accurate health information about the minor's family to enable the practitioner to assess adequately the risks and benefits inherent in the proposed immunization and to determine whether the immunization is advisable.
- (d) A person may not consent to the immunization of a minor pursuant to this subsection (2.5) if:
 - (I) The person has actual knowledge that the parent, legal guardian, person vested with legal custody of a minor or decision-making responsibility for the medical care of a minor, or other adult person responsible for the care of a minor in this state has expressly refused to give consent to the immunization; or
 - (II) The parent, legal guardian, person vested with legal custody of a minor or decision-making responsibility for the medical care of a minor, or other adult person responsible for the care of a minor in this state has told the person that the person may not consent to the immunization of the minor or, in the case of a written authorization, has withdrawn the authorization in writing.
- (3) In addition to the immunization obligations set forth in section 25-4-905, relating to the immunization of indigent children, and except as provided in subsection (4) of this section, the department shall provide at public expense, subject to available appropriations, systematic immunizations to those infants that are not exempt from such immunization pursuant to paragraph (a) or (b) of subsection (4) of this section. The manner and frequency of vaccine administration shall conform to recognized standards of medical practice which are necessary for the protection of public health.
- (4) An infant shall be exempted from receiving the required immunizations:
 - (a) Upon submitting certification from a licensed physician that the physical condition of the infant is such that one or more specified immunizations would endanger the infant's life or health; or
 - (b) Upon submitting a statement signed by one parent or guardian that such parent or guardian adheres to a religious belief whose teachings are opposed to immunizations, or that such parent or guardian has a personal belief that is opposed to immunization.

25-4-1705—Department of public health and environment—powers and duties.

- (1) The department shall negotiate for the purchase of and shall purchase vaccines to achieve the purposes of this part 17.
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- (2) The department shall secure and maintain such facilities as may be necessary for the safe and adequate preservation and storage of such vaccines.
- (3) The department shall distribute such vaccines, in accordance with rules promulgated by the board of health, without purchase, shipping, handling, or other charges to practitioners who agree not to impose a charge for such vaccine on the infant recipient, the child's parent or guardian, third-party payor, or any other person; except that a practitioner may charge a reasonable administrative fee in connection with the administration of a vaccine. The board of health shall determine the amount of such administrative fee that a practitioner may charge.
- (4) The department shall collect epidemiological information and shall establish a system for recording such information pursuant to rules and regulations adopted by the board of health.
- (5) The board of health, in consultation with the medical services board in the state department of health care policy and financing, and such other persons, agencies, or organizations that the board of health deems advisable, shall formulate, adopt, and promulgate rules governing the implementation and operation of the infant immunization program. Such rules shall address the following:
 - (a) The purchase, storage, and distribution of the vaccines by the department;
 - (b) Requirements that providers, hospitals, and health care clinics must meet before entering into a contract with the department, making such provider, hospital, or clinic an agent of the department for the purposes of the infant immunization program;
 - (c) Which vaccines shall be required to be administered;
 - (d) The route and frequency of the vaccine's administration;
 - (e) (I) The gathering of epidemiological information, including the establishment of a comprehensive immunization tracking system. Immunization information may be gathered for such tracking system by state and local health departments from the following sources:
 - (A) Physicians and licensed health care practitioners;
 - (B) Clinics;
 - (C) Schools;
 - (D) A parent of an infant, as defined in section 25-4-1703 (3);
 - (E) A child or student, as defined in section 25-4-901 (1.5) and (3);
 - (F) Managed care organizations or health insurers in which a child or student, as defined in section 25-4-901 (1.5) and (3), or an infant is enrolled as a member or insured, if such managed care organization or health insurer reimburses or otherwise financially provides coverage for immunizations;

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- (G) Hospitals; or
 - (H) Persons and entities that have contracted with the state pursuant to section 25-4-1705 (7).
- (II) Records in the immunization tracking system established pursuant to subparagraph (I) of this paragraph (e) shall be strictly confidential and shall not be released, shared with any agency or institution, or made public upon subpoena, search warrant, discovery proceedings, or otherwise, except under the following circumstances:
- (A) Release may be made of medical and epidemiological information in a manner such that no individual person can be identified.
 - (B) Release may be made of immunization records and epidemiological information to the extent necessary for the treatment, control, investigation, and prevention of vaccine preventable diseases; except that every effort shall be made to limit disclosure of personal identifying information to the minimal amount necessary to accomplish the public health purpose.
 - (C) Release may be made of immunization records and epidemiological information to the parent of an infant, the physician treating the person who is the subject of an immunization record, a school in which such person is enrolled, or any entity or person described in sub-subparagraph (E), (F), (G), or (H) of subparagraph (I) of this paragraph (e).
 - (D) No officer or employee or agent of the state department of public health and environment or local department of health shall be examined in any judicial, executive, legislative, or other proceeding as to the existence or content of any infant's report obtained by such department without consent of the infant's parent or guardian. However, this provision shall not apply to infants who are under isolation, quarantine, or other restrictive action taken pursuant to section 25-1-107 (1) (b).
 - (E) The department may release records of medicaid-eligible infants, children, and students to the department of health care policy and financing for the purposes of the medicaid program.
- (III) (A) Any officer, employee, agent of the department, or any other person who violates this section by releasing or making public confidential immunization records or epidemiological information in the immunization tracking system or by otherwise breaching the confidentiality requirements of subparagraph (II) of this paragraph (e) or releasing such information without authorization commits a class 1 misdemeanor and, upon conviction thereof, shall be punished as provided in
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section 18-1-106 (1), C.R.S. The unauthorized release of each record shall constitute a separate offense pursuant to this subparagraph (III).

- (B) Any natural person who in exchange for money or any other thing of value violates this section by wrongfully releasing or making public confidential immunization records or epidemiological information in the immunization tracking system or by otherwise breaching the confidentiality requirements of subparagraph (II) of this paragraph (e) or releasing such information without authorization commits a class 1 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1-106 (1), C.R.S.
 - (C) Any business entity who, in exchange for money or any other thing of value, violates this section by wrongfully releasing or making public confidential immunization records or epidemiological information in the immunization tracking system or by otherwise breaching the confidentiality requirements of subparagraph (II) of this paragraph (e) or releasing such information without authorization shall be assessed a civil penalty of ten thousand dollars per sale of information per subject of such information.
 - (IV) The department shall not directly contact the parent or legal guardian for the purpose of notifying the parent or legal guardian of immunizations that are recommended or required by the board of health, unless such contact is necessary to control an outbreak of or prevent the spread of a vaccine-preventable disease pursuant to section 25-1-107 (1) (a) or 25-4-908.
 - (V) A parent or legal guardian who consents to the immunization of an infant, child, or student pursuant to this part 17 or part 9 of this article shall have the option to exclude such information from the immunization tracking system. The parent or legal guardian shall have the option to remove such information from the immunization tracking system at any time. The physician, licensed health care practitioner, clinic, or local health department shall inform the parent or legal guardian of the option to exclude such personal information from such system and the potential benefits of inclusion in such system. In addition, the physician, licensed health care practitioner, clinic, or local health department shall inform such parent or legal guardian of the option to refuse an immunization on the grounds of medical, religious, or personal belief considerations pursuant to section 25-4-903.
- (f) The issuance of immunization records to parents or guardians;
 - (g) The assessment of the vaccination status of infants;
 - (h) The dissemination of information about the operation of the infant immunization program, including the requirement that such information be distributed by hospitals to parents of newborns.
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- (6) The department is authorized to accept any gifts or grants or awards of funds from the federal government or private sources for the implementation and operation of the infant immunization program.
- (7) The department is authorized to enter into contracts which are necessary for the implementation and operation of the infant immunization program.
- (8) Local health departments and the department shall use the birth certificate of any infant to enroll such infant in an immunization tracking system. Such use of the infant's birth certificate shall be considered an official duty of local health departments and the department.
- (9)
 - (a) As necessary to voluntarily immunize infants, children, students, and adults of Colorado, the department may contract in accordance with the "Procurement Code," articles 101 to 112 of title 24, C.R.S., with a private or nonprofit entity to arrange for the cost-effective ordering, distribution, and accounting of vaccines. Prior to the execution of any contract with such an entity, the department shall provide to the board of health for public review a report describing the proposed business model of the prospective contractor. Once under contract, the entity shall also provide complete records of immunizations to the subject of such records and the persons or entities listed in sub-subparagraphs (A) to (H) of subparagraph (I) of paragraph (e) of subsection (5) of this section.
 - (b) The department or any person who contracts with the department pursuant to paragraph (a) of this subsection (9) or subsection (7) of this section shall not establish a universal purchase system for the procurement of vaccines for privately insured persons under federal government contracts.
- (10) Physicians, licensed health care practitioners, clinics, schools, licensed child care providers, hospitals, managed care organizations or health insurers in which a student as defined in section 25-4-901 (3) or an infant is enrolled as a member or insured, persons that have contracted with the department pursuant to subsection (7) of this section, and public health officials may release any immunization records in their possession, whether or not such records are in the immunization tracking system, to the persons or entities specified in sub-subparagraphs (A) to (H) of subparagraph (I) of paragraph (e) of subsection (5) of this section to provide an accurate and complete immunization record for the child in order to verify compliance with state immunization law.

25-4-1706—Infant immunization program—eligibility.

Any infant shall be eligible for participation in the infant immunization program; except that, for fiscal year 1992–93, only infants born on or after January 1, 1993, shall be eligible for participation in the infant immunization tracking program.

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25-4-1707—Moneys targeted for medical assistance for infants—reimbursement.

The state department of human services shall reimburse the department of public health and environment for the costs of vaccinating infants under the infant immunization program who are medicaid eligible pursuant to the "Colorado Medical Assistance Act," part 1 of article 4 of title 26, C.R.S. Such moneys received from the state department of human services shall be credited to the infant immunization fund.

25-4-1708—Fund created.

- (1) There is hereby established in the state treasury a fund to be known as the infant immunization fund, which fund shall be subject to annual appropriation to the department of public health and environment by the general assembly for the purpose of purchasing vaccines and implementing, developing, and operating the infant immunization program. The fund shall be credited with such appropriations as the general assembly may make from the general fund for the infant immunization program, any gifts, grants, or awards received pursuant to section 25-4-1705 (6), and moneys received from the state department of health care policy and financing as reimbursement pursuant to section 25-4-1707. All income from the investment of moneys in the fund shall be credited to the fund.
- (2) If federal funds are not received to implement and operate the infant immunization program created in this part 17, no additional general fund moneys shall be appropriated for such purposes.
- (3) All moneys credited to the infant immunization fund which are not expended during the fiscal year shall be retained in the fund for its future use and shall not be credited or transferred to the general fund or any other fund.

25-4-1709—Limitations on liability.

- (1) No person who administers a vaccine required under the provisions of this part 17 shall be held liable for injuries sustained pursuant to such vaccine if:
 - (a) The vaccine was administered according to the schedule of immunization established by the board of health;
 - (b) There were no medical contraindications for administering such vaccine; and
 - (c) The vaccine was administered using generally accepted clinical methods.
- (2) An action shall not be maintained for a vaccine-related injury or death until action for compensation for such alleged injury has been exhausted under the terms of the federal "National Childhood Vaccine Injury Act of 1986," 42 U.S.C. secs. 300aa-10 to 300aa-33, as such law is from time to time amended, provided the federal "National Childhood Vaccine Injury Act of 1986" applies to the particular vaccine administered.
- (3) If the injury or death which is sustained does not fall within the parameters of the vaccine injury table as defined in 42 U.S.C. sec. 300aa-14, as enacted on November 14, 1986, a rebuttable presumption is established that the injury sustained or the death

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was not due to the administration of the vaccine. Such presumption shall be overcome by a preponderance of the evidence.

- (4) Where a claim against a hospital, clinic, or provider arises from injuries resulting from the handling, storage, or distribution of vaccines required by this part 17, such hospital, clinic, or provider shall not be liable unless such injuries are the result of the negligent failure of an employee of such hospital, clinic, or provider to conform to recognized standards of practice which are necessary for the protection of public health.
 - (5) A practitioner licensed to practice medicine pursuant to article 36 of title 12, C.R.S., or nursing pursuant to article 38 of title 12, C.R.S., or the health care clinic, hospital, office of a private practitioner, or county public health clinic at which the immunization was administered that relies on the health history and other information given by a person who has been delegated the authority to consent to the immunization of a minor pursuant to section 25-4-1704 (2.5) is not liable for damages related to an immunization resulting from factual errors in the health history or information given to the practitioner or the health care clinic, hospital, office of a private practitioner, or county public health clinic at which the immunization was administered by the person when such practitioner or health care clinic, hospital, office of a private practitioner, or county public health clinic reasonably relies upon the health history information given and exercises reasonable and prudent care in administering the immunization.
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