

RULES AND REGULATIONS
PERTAINING TO IMMUNIZATION, TESTING,
AND HEALTH SCREENING
FOR
HEALTH CARE WORKERS

(R23-17-HCW)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

JULY 2002

As amended:
January 2007

INTRODUCTION

These rules and regulations are promulgated under the authority of Chapters 23-17 and 23-17.7.1 of the General Laws of Rhode Island, as amended, and are established in accordance with the most current recommendations of the Centers for Disease Control and Prevention for the purpose of adopting prevailing standards for immunization and communicable disease screening and testing for health care workers prior to employment in Rhode Island-licensed health care facilities. In addition, the provisions of section 6.0 herein shall apply to all health care workers employed in health care facilities licensed under the provisions of Chapter 23-17 of the Rhode Island General Laws, as amended, on and after the effective date of these regulations.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. No alternative approach, overlap or duplication was identified; consequently the regulations are adopted in the best interest of the health, safety and welfare of the public.

These regulations shall supercede all pre-employment health screening and immunization requirements contained in the *Rules and Regulations Pertaining to Immunization, Testing, and Health Screening for Health Care Workers* (R23-17-HCW) promulgated by the Department of Health and filed with the Secretary of State.

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Section 1.0 *Definitions*

Wherever used in these rules and regulations, the following terms shall be construed as follows:

- 1.1 *Advisory Committee on Immunization Practices (ACIP) recommendations*", as used herein, means official federal recommendations for the use of vaccines in the United States and as published by the Centers for Disease Control and Prevention.
- 1.2 *"Certified registered nurse practitioner (RNP)"* means a registered nurse who practices in an advanced role utilizing independent knowledge of physical assessment and management of health care and illnesses. The practice includes prescriptive privileges, and collaboration with other licensed health care professionals, including, but not limited to, physicians, pharmacists, podiatrists, dentists and nurses.
- 1.3 *"Department"* means the Rhode Island Department of Health.
- 1.4 *"Direct patient contact"*, as used herein, means any routinely anticipated face-to-face interaction with patients in a health care facility.
- 1.5 *"Director"* means the Director of the Rhode Island Department of Health.
- 1.6 *"Health care facility"* means any institutional health service provider, facility or institution, place, building, agency, or portion thereof, whether a partnership or corporation, whether public or private, whether organized for profit or not, used, operated, or engaged in providing health care services, including but not limited to hospitals; nursing facilities; home nursing care provider (which shall include skilled nursing services and may also include activities allowed as a home care provider, or as a nursing service agency); home care provider (which may include services such as personal care or homemaker services or as a nursing service agency); rehabilitation centers; kidney disease treatment centers; health maintenance organizations; free-standing emergency care facilities, and facilities providing surgical treatment to patients not requiring hospitalization (surgi-centers); hospice care, physician ambulatory surgical centers and podiatry ambulatory surgery centers providing surgical treatment and nursing service agencies licensed under the provisions of Chapter 23-17.7.1 of the Rhode Island General Laws, as amended. The term "health care facility" also includes organized ambulatory care facilities which are not part of a hospital but which are organized and operated to provide health care services to outpatients such as central services facilities serving more than one health care facility or health care provider, treatment centers, diagnostic centers, outpatient clinics, infirmaries and health centers, school-based health centers and neighborhood health centers; providing, however, that the term "health care facility" shall not apply to organized ambulatory care facilities owned and operated by professional service corporations as defined in chapter 5.1 of title 7, as amended (the "Professional Service Corporation Law"), or to a private practitioner's (physician, dentist, or other health care provider) office or group of the practitioners' offices (whether owned and/or operated by an individual practitioner, alone or as a member of a partnership, professional service corporation, organization, or association). Individual categories of health care facilities shall be defined in rules and regulations promulgated by the licensing agency with the advice of the Health Services Council. Rules and regulations concerning hospice care shall be promulgated with regard to the "Standards of a Hospice Program of Care", promulgated by national hospice

organization. Any provider of hospice care who provides such hospice care without charge shall be exempt from the licensing provisions of Chapter 23-17 of the Rhode Island General Laws, as amended, but shall meet the "Standards of a Hospice Program of Care." Facilities licensed by the Department of Mental Health, Retardation and Hospitals, and the Department of Human Services, and clinical laboratories licensed in accordance with chapter 16.2 of Title 23, as well as Christian Science institutions (also known as Christian Science Nursing Facilities) listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc. shall not be considered health care facilities for purposes of Chapter 23-17 of the Rhode Island General Laws, as amended.

- 1.7 **"Health care worker"** means any person who has or may have direct contact with a patient in a health care facility. This may include, but not be limited to, a physician, dentist, nurse, optometrist, podiatrist, physical therapist, social worker, pharmacist, psychologist, student, on-site faculty, receptionist, dietary staff, housekeeping staff, security personnel, and any officer, employee or agent of that provider acting in the course and scope of his or her employment or agency related to or supportive of health services.

For the purposes of these regulations, as they apply to hospitals, **"health care worker"** shall also mean those non-employee staff, such as volunteers, who are involved in direct patient contact.

Transient employees not involved in direct patient contact or outside contractors not involved in direct patient contact are exempt from the requirements stated herein.

- 1.8 **"Nurse"** means an individual licensed in this state to practice nursing pursuant to the provisions of Chapter 5-34 of the General Laws of Rhode Island, as amended.
- 1.9 **"Physician"**, as used herein, means an individual licensed under the provisions of Chapter 5-37 of the General Laws of Rhode Island, as amended, or an individual licensed to practice allopathic or osteopathic medicine under the laws of another state or territory of the United States, provided those laws are deemed to be substantially equivalent to Chapter 5-37 of the Rhode Island General Laws, as amended.
- 1.10 **"Physician assistant"** means a person, who is qualified by academic and practical training to provide those certain patient services under the supervision, control, responsibility and direction of a licensed physician.
- 1.11 **"Practitioner"**, as used herein, means a physician, certified registered nurse practitioner, registered nurse, licensed practical nurse, or a physician assistant.
- 1.12 **"Pre-employment health screening"** means the review of health records, pertinent laboratory results, and other documentation of a health care worker performed by a licensed practitioner in order to determine that the health care worker is free of the communicable diseases cited in these regulations, and is also appropriately immunized, tested, and counseled prior to employment.

Section 2.0 *General Requirements*

- 2.1 Health care facilities shall adopt, at a minimum, the standards of immunization and communicable disease testing and standards for health screening contained in sections 3.0 and 6.0 of these regulations.
- 2.2 It shall be the responsibility of the administrative head, or his/her designee, of any health care facility to secure compliance with these rules and regulations.
- 2.3 Each health care facility shall develop policies, procedures, and/or protocols for compliance with the requirements described herein.
- 2.4 In hospitals, active medical staff members, including all credentialed staff, may satisfy the requirements stated herein through documentation with hospital authorities at the time of initial credentialing and subsequent reappointments, or more frequently, if recommended by the policies of the hospital. Provided, however, the provisions of section 6.0 related to the offering of seasonal influenza vaccine to all active medical staff members who have direct patient contact shall apply.
- 2.5 Transient employees not involved in direct patient contact or outside contractors not involved in direct patient contact are exempt from the requirements stated herein.
- 2.6 In licensed health care facilities, other than hospitals, non-employee staff, such as volunteers, who are involved in direct patient contact shall be exempt from the requirements stated herein.
- 2.7 Health care facilities and health care workers shall comply with additional immunization and screening requirements that the Director may prescribe from time to time in order to control communicable diseases.
- 2.8 Persons discovering communicable diseases (e.g., physicians, physician assistants, registered nurse practitioners), in the process of screening health care workers shall comply with the reporting requirements contained in the most current version of the *Rules and Regulations Pertaining to the Reporting of Communicable, Environmental and Occupational Diseases* of reference 3 herein and the most current version of the *Guidelines for Prevention and Control of Communicable Diseases* issued by the Division of Community Health and Equity at the Department.
- 2.9 In accordance with ACIP recommendations, for all vaccines discussed herein, vaccine doses administered less than or equal to four (4) days before the minimum interval or age shall be counted as valid. Doses administered five (5) or more days earlier than the minimum interval or age shall not be counted as valid doses and shall be repeated as age-appropriate. The repeat dose should be spaced after the invalid dose by the recommended minimum interval as provided in ACIP recommendations. (See reference 1 herein).
- 2.10 Health care workers who receive the first dose of a multi-dose vaccine series may begin to work after this first dose is received.

Section 3.0 *Minimum Standards for Immunization and Communicable Disease Testing for Health Care Workers*

- 3.1 A pre-employment health screening shall be required for each health care worker involved in direct patient contact. Acceptable evidence shall be provided by the health care worker that testing and/or immunization for the communicable diseases listed herein for pre-employment health screening have been completed.
- 3.2 The health care facility shall document, in written or electronic form, that said acceptable evidence has been provided by the health care worker and validated by the practitioner as being acceptable in accordance with section 4.0 herein. Copies of said acceptable evidence shall be maintained in the health care worker's file.
- 3.3 A practitioner shall have responsibility for performance of the pre-employment health screening. Such a practitioner may be an employee of the facility where employment is sought or may be an independent non-employee, contracted practitioner.
- 3.4 A health care worker who is not in compliance with these requirements shall be excluded from attending patients in a health care facility until the requirements are met.

Immunization and Testing Requirements

- 3.5 In accordance with the guidelines set forth by the Advisory Committee on Immunization Practices (ACIP), evidence of immunity is required for all health care workers (with the exception of health care workers who receive a medical exemption) against:

a) *Measles, Mumps and Rubella:*

Evidence of Immunity:

- 1) Health care workers born on or before December 31, 1956 are required to have documented record of immunization of one (1) dose of a measles containing vaccine, one (1) dose of mumps, and one (1) dose of rubella and thus are exempt from the two (2) dose requirement of a measles and mumps containing vaccine described in subsection 2) below; **OR** #3 below.
- 2) Health care workers born on or after January 1, 1957, are required to have documented record of immunization (as described in section 4.0 below) of two (2) doses of a measles-containing vaccine (preferably MMR vaccine), two (2) doses of a mumps-containing vaccine (preferably MMR vaccine), and one (1) dose of a rubella vaccine. The first dose of vaccine must have been administered on or after the first birthday. The second dose of a measles or mumps containing vaccine must be administered at least four (4) weeks after the first dose. **OR**
- 3) Serologic evidence of acquired immunity (i.e., laboratory report of positive IgG titers for measles, and mumps and rubella).

Varicella (Chickenpox):

- b) Evidence of immunity shall consist of:
 - 1) Two (2) doses of varicella vaccine. The second dose of varicella vaccine must be administered at least four (4) weeks after the first dose; ***or***
 - 2) Laboratory evidence of immunity or laboratory confirmation of disease; ***or***
 - 3) A healthcare provider diagnosis of varicella or healthcare provider verification of history of varicella disease; ***or***
 - 4) History of herpes zoster based on healthcare provider diagnosis.

Tetanus, Diphtheria, and Pertussis (Tdap):

- c) Health care workers less than 65 years of age are required to have documentation of having received a single dose of Tdap vaccine if it has been two (2) years or more since the last dose of Td vaccine. Health care workers who are 65 years of age or older shall be exempt from this requirement until such time as there is a pertussis containing vaccine licensed for use in this age group.

Tuberculosis (TB):

- d) Evidence that the health care worker is free of active tuberculosis based upon the results of a negative two-step tuberculin skin test shall be required.
 - 1) If documented evidence is provided by the health care worker that a two-step tuberculin skin test, performed within the most recent twelve (12) months prior to hire, was negative, the requirements of this section shall be met.
 - i) For health care workers who can present documentation of serial tuberculin testing with negative results in the prior two (2) years (or more), a single baseline negative tuberculin test result is sufficient evidence of absence of TB infection.
 - 2) A negative FDA-approved blood assay for Mycobacterium tuberculosis (BAMT) may be used instead of a two-step tuberculin skin test. If the baseline BAMT is positive, screening should proceed as indicated below for positive PPD.
 - 3) Documentation shall include date and result of the tuberculin skin test (PPD), and reaction size in millimeters or an actual copy of the laboratory test result from a BAMT.
 - 4) If the PPD test or BAMT is positive, consistent with the most current Centers for Disease Control and Prevention{CDC} guidance, or a previous one is known to have been positive, a physician's or other licensed practitioner's (acting within his/her scope of practice) certification that the health care worker is free of active disease shall be required. Such certification shall be based on documentation of adequate

chemotherapy for TB disease or chemo-prophylaxis for latent TB infection in the past, and a current history of freedom from signs and symptoms of TB. In the absence of documentation of chemotherapy or chemo-prophylaxis, a negative chest X-ray shall be required for certification. The chest x-ray shall have been performed at any time after the most recent positive PPD test result.

- 5) A physician, certified registered nurse practitioner, or a physician assistant may certify that the health care worker is currently free of TB based on his/her clinical judgment for complex cases or unusual circumstances that do not fit the above criteria.

Hepatitis B vaccination and testing:

- e) Health care facilities shall abide by the OSHA Blood Borne Pathogens Standard (29 CFR 1910-1030), including the offering of hepatitis B vaccination along with all recommendations for infection control training and provision of protective equipment to those health care workers at risk. An exposure control plan shall be in place in all health care facilities licensed by the Department of Health, pursuant to the provisions of Chapter 23-17 of the General Laws, as amended. Employees at risk of exposure to blood-borne pathogens shall be offered hepatitis B vaccine within ten (10) days of employment. The hepatitis B vaccination series consists of three (3) doses of vaccine given as two (2) doses four (4) weeks apart followed by a third dose five (5) months after the second dose. It is recommended that a titer be performed one (1) to two (2) months after the last dose. Persons failing to develop a titer shall be offered a repeat three (3) dose series with follow up titers. Employees have the option of signing a standard OSHA declination form if they choose not to be vaccinated and should be counseled regarding risk.

Section 4.0 *Documentation of Immunity and Testing (Immunization Records)*

- 4.1 Acceptable documentation of completion of immunizations shall include the day, month, year and type/name of each dose of vaccine administered. The record of such evidence shall be signed by a practitioner (the signature of the health care worker is not acceptable).

4.1.1 Acceptable documentation of completion of immunization consists of:

- (a) an official immunization record card, school immunization record, medical passport, World Health Organization immunization record, a copy of a medical record indicating administration of vaccine; or other official immunization records acceptable to the Director; or
- (b) an electronically stored and/or transmitted documentary record (facsimile transmission, computerized record, including, but not limited to, a record on magnetic media or similar record) as may be utilized by a school; or
- (c) presentation of laboratory evidence of immunity is made in the case of measles, mumps, rubella, varicella, or hepatitis B.

Section 5.0 *Exemptions*

- 5.1 A health care worker may be exempt from the immunization requirements described herein provided that a physician, physician assistant, or certified registered nurse practitioner signs a medical exemption stating that the health care worker is exempt from a specific vaccine because of medical reasons, in accordance with Advisory Committee on Immunization Practices (ACIP) guidelines; or in accordance with contraindications identified by the vaccine manufacturer.

Section 6.0 *Requirements for All Health Care Workers: Seasonal Influenza Vaccine*

- 6.1 Each health care facility shall offer annual vaccination against seasonal influenza to all health care workers involved in direct patient contact.
- 6.2 On and after July 1, 2007, each health care facility shall be responsible for providing, on an annual basis, to those health care workers having direct patient contact, education and training on the severity of influenza, particularly in high-risk patients, and the safety and efficacy of vaccination. The health care facility shall include an active declination policy and related record-keeping in this process. Provided, however, the Director may suspend this requirement when there is insufficient vaccine supply, as determined by the Department.
- 6.3 The health care facility shall develop an active surveillance program to track and record influenza vaccination levels among health care workers, including vaccinations obtained outside of the formal health care facility program. Each health care facility shall be responsible for documenting and reporting to the Center for Epidemiology at the Department annually (by July 1st of each year commencing on July 1, 2008): 1) the number of health care workers who are eligible for said vaccination; 2) the number of health care workers who accept said vaccination; and 3) for those who declined, the reason(s) for such declination. Such reporting shall occur according to procedures and format outlined by the Center for Epidemiology.

Section 7.0 *Severability*

- 7.1 If any provision of these rules and regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.

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