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Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-110
VAC Chapter title(s)	Regulations for the Immunization of School Children
Action title	Amend Regulations to Conform to Chapter 1223 of the 2020 Acts of Assembly
Final agency action date	September 22, 2022
Date this document prepared	August 4, 2022

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This amendment to the Regulations for the Immunization of School Children is necessary to maintain conformity with the Code of Virginia following language added in Chapter 1223 of the 2020 General Assembly Regular Session. As a result of that action, the list of minimum requirements for school required immunization in § 32.1-46 was amended to include additional vaccine requirements. This amendment to the regulations will bring them into compliance with the list specified in the Code of Virginia.

Prior to this Final Exempt Action, the Virginia Department of Health (VDH) published a Notice of Intended Regulatory Action followed by a 60-day public comment period, as required by § 32.1-46 subsection C. VDH received 26 comments. Twenty-four were in opposition to the action (11 generally for choice and against mandates, 10 concerns over HPV vaccine, 1 provided no explanation, 1 minimize chemicals in

children, and 1 misunderstood action), one appeared to be for the action, and one was categorized as N/A because no comment was left and the title was "protect our children" which could go either way.

The amendments seek to update the Regulations for the Immunization of School Children in order to adhere to the minimum immunization requirements specified in § 32.1-46. The amendments are listed below and are consistent with language added to the Code of Virginia as a result of Chapter 1223 of the 2020 Regular Session.

- Update 12VAC5-110-10 to
 - Include the term “Adequately Immunized” in the definition of “Adequate Immunization”
 - Amend the definition of “Immunization Schedule” in 12VAC5-110-10 to reference the 2021 Recommended Immunization Schedules for Children and Adolescents Aged 18 Years or Younger developed and published by the Centers for Disease Control and Prevention (CDC), the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).
- Update the purpose in 12VAC5-110-20 of the regulations such that it no longer contains specific vaccines.
- Amend the language in 12VAC5-110-50 to reference the exemption to the Administrative Process Act, requirement for a NOIRA, and a 60 day public comment period.
- Update 12VAC5-110-70 to
 - Amend the varicella requirement to clarify that children shall receive two properly spaced doses of varicella vaccine and that the first dose shall be administered at age 12 months or older.
 - Amend the HPV requirement to clarify that there shall be two doses of properly spaced HPV vaccine, regardless of gender, and that the first dose shall be administered before the child enters the 7th grade.
 - Add a requirement for rotavirus to state that children shall have two or three properly spaced doses of rotavirus vaccine, depending on the manufacturer, for children up to eight months of age.
 - A requirement for hepatitis A vaccine has been added to state that children shall have two properly spaced doses of hepatitis A vaccine and the first dose shall be administered at age 12 months or older.
 - Add a requirement for meningococcal conjugate vaccine to state that children shall have two properly spaced doses of meningococcal conjugate vaccine, that the first dose shall be administered prior to entry to seventh grade, and that the second dose shall be administered prior to entry to twelfth grade.
- Update 12VAC5-110-90 to
 - Clarify exclusion language so as to not use a term defined to mean something else in the regulations (immunization schedule).
 - Amend subsection H to clarify update HPV requirements.
- Amend Documents Incorporated by Reference to incorporate the most recent version of the Recommended Immunization Schedule for Children and Adolescents Aged 18 Years or Younger.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Chapter 1223 of the 2020 General Assembly Regular Session requires the Virginia Department of Health to update the Regulations for the Immunization of School Children to conform school immunization requirements to the minimum requirements specified in § 32.1-46.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Board of Health approved these Final amendments to the *Regulations for the Immunization of School Children (12VAC5-110)* at its quarterly meeting on September 22, 2022.