



The Pennsylvania Coalition for Informed Consent

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Notice To School Officials:

Our organization has received reports from the parents of students that schools have led them to believe the only option for enrolling their children was to have them fully vaccinated.

The purpose of this letter is to remind you of the requirements of Pennsylvania law, which offers options besides vaccination for school attendance, and the legal duty of school administrations to fully inform parents of those options.

This duty is set forth in the Pennsylvania Code, Title 28, Subchapter C, Immunization, §23.85, Responsibilities of Schools and School Administrators, a copy of which is enclosed for your convenience. Subsection 23.85(a)(1) requires school administrators to appoint a knowledgeable person to inform a parent, guardian or emancipated child of Subchapter C requirements. Subchapter C includes §23.84, Exemption from Immunization (also enclosed), which provides students the options of attending school under a medical or religious/ethical exemption from immunization. Moreover, §23.85(d) mandates that students are to be admitted to school or allowed to continue attending upon submitting information sufficient for a §23.84 immunization exemption.

Furthermore, when §23.85(a)(2) requires the “knowledgeable person” appointed by a school administrator to ascertain a student’s immunization status before school admission or continued attendance, §23.85(b) makes it clear that a §23.84 immunization exemption is an optional immunization status. Therefore, the requirement to ascertain a student’s immunization status cannot be fully met unless school administrations ask whether a student has a §23.84 immunization exemption.

A school administration that does not inform parents about the availability of §23.84 immunization exemptions as required by §23.85(a)(1), or which does not inquire about such exemptions when ascertaining a student’s immunization status per §23.85(a)(2) & (b), is not in compliance with Pennsylvania law. These omissions --- and especially misleading parents to believe that fully immunizing students is their only option for school attendance --- are unlawful, raise issues of informed medical consent, are potentially dangerous to student health, and open schools to potential legal liability.

In order to ensure that you are providing complete and accurate information in compliance with Pennsylvania law, we recommend that you use the enclosed PA Department of Health flyer, which can also be found on the department’s website.

We appreciate your attention to this serious and urgent matter.

Sincerely,

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§ 23.84. Exemption from immunization.

(a) *Medical exemption.* Children need not be immunized if a physician or the physician's designee provides a written statement that immunization may be detrimental to the health of the child. When the physician determines that immunization is no longer detrimental to the health of the child, the child shall be immunized according to this subchapter.

(b) *Religious exemption.* Children need not be immunized if the parent, guardian or emancipated child objects in writing to the immunization on religious grounds or on the basis of a strong moral or ethical conviction similar to a religious belief.

Source

The provisions of this § 23.84 amended through September 17, 1982, effective August 1, 1983, 12 Pa.B. 3288; amended August 22, 1997, effective August 23, 1997, 27 Pa.B. 4317. Immediately preceding text appears at serial pages (164332) to (164333) and (129145).

Cross References

This section cited in 22 Pa. Code § 11.20 (relating to nonimmunized children); 22 Pa. Code § 51.13 (relating to immunization); 22 Pa. Code § 405.49 (relating to immunizations); 28 Pa. Code § 23.85 (relating to responsibilities of schools and school administrators); and 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings).

§ 23.85. Responsibilities of schools and school administrators.

(a) *Inform of requirements and ascertain immunization status.* The administrator in charge of a school shall appoint a knowledgeable person to perform all of the following:

(1) Inform the parent, guardian or emancipated child at registration or prior to registration, if possible, of the requirements of this subchapter.

(2) Ascertain the immunization status of a child prior to admission to school or continued attendance at school.

(i) The parent, guardian or emancipated child shall be asked for a completed certificate of immunization.

(ii) In the absence of a certificate of immunization, the parent, guardian or emancipated child shall be asked for a record or history of immunization which indicates the month, day and year that immunizations were given. This information shall be recorded on the certificate of immunization and signed by the school official or the school official's designee, or the details of the record shall be stored in a computer database.

(b) *Admission to school or continued attendance.* If the knowledgeable person designated by the school administrator is unable to ascertain whether a child has received the immunizations required under § 23.83 (relating to immunization requirements) or under subsection (e) or is exempt under § 23.84 (relating to exemption from immunization), the school administrator may admit the child to school or allow the child's continued attendance at school only according to the requirements of subsections (d) and (e).

(c) *Inform of specific immunization requirements.* The parent or guardian of a child or the emancipated child who has not received the immunizations required under § 23.83 shall be informed of the specific immunizations required and advised to go to the child's usual source of care or nearest public clinic to obtain the required immunizations.

(d) *Requirements under which admission or continued attendance is permitted.* A child not previously admitted to or not allowed to continue attendance at school because the child has not had the required immunizations shall be admitted to or permitted to continue attendance at school only upon presentation to the school administrator or school administrator's designee of a completed certificate of immunization or immunization record, upon submission of information sufficient for an exemption under § 23.84, or upon compliance with subsection (e).

(e) *Provisional admittance to school.*

(1) *Multiple dose vaccine series.* If a child has not received all of the antigens for a multiple dose vaccine series described in § 23.83 on the child's first day of attendance for that school year, the school administrator or the school administrator's designee may not provisionally admit the child to school unless the child has at least one dose of each multiple dose vaccine series required under § 23.83, and one of the following occurs:

(i) The child receives the final dose of each multiple dose vaccine series required under § 23.83 within 5 school days of the child's first day of attendance, and the child's parent or guardian provides a certificate of immunization on or before the 5th school day.

(ii) If the child needs additional doses of a multiple dose vaccine series to meet the requirements of § 23.83, the child receives the next scheduled dose during the 5 school days referenced in subparagraph (i), and the child's parent or guardian provides a medical certificate on or before the 5th school day scheduling the additional required doses.

(iii) If the child needs additional doses of a multiple dose vaccine series to meet the requirements of § 23.83, but the next dose is not medically appropriate during the 5 school days referenced in subparagraph (i), the child's parent or guardian provides a medical certificate on or before the 5th school day scheduling the additional required doses.

(2) *Single dose vaccines.* If a child has not received a vaccine for which only a single dose is required on the child's first day of attendance for that school year, the child may not be admitted to school.

(3) *Completion of required immunizations.* The medical certificate shall be reviewed at least every 30 days by the school administrator or the school administrator's designee. Subsequent

immunizations shall be entered on the certificate of immunization or entered in the school's computer database. Immunization requirements described in § 23.83 shall be completed in accordance with the requirements of the medical certificate. If, upon review, the requirements of the medical certificate are not met, the school administrator or the school administrator's designee may exclude the child from school.

(4) *Medical certificate.* A school shall maintain the medical certificate until the official school immunization record is completed.

(f) *Certificate of immunization.* A school shall maintain on file a certificate of immunization for a child enrolled. An alternative to maintaining a certificate on file is to transfer the immunization information from the certificate to a computer database. The certificate of immunization or a facsimile thereof generated by computer shall be returned to the parent, guardian or emancipated child or the school shall transfer the certificate of immunization (or facsimile) with the child's record to the new school when a child withdraws, transfers is promoted, graduates or otherwise leaves the school.

(g) *Applicability.* This section does not apply to a child if one of the following occurs:

(1) The child has not been immunized or is unable to provide immunization records due to being homeless. A school shall comply with Federal laws pertaining to the educational rights of homeless children, including the McKinney-Vento Homeless Education Assistance Improvements Act of 2001 (42 U.S.C.A. § § 11431—11435).

(2) The child, when moving or transferring into a school in this Commonwealth, is unable to provide immunization records immediately upon enrollment into the school. The child's parent or guardian shall have 30 days to provide immunization records to the school to show proof of immunization as set forth in § 23.83, a medical certificate as set forth in subsection (e) or to satisfy the requirements for an exemption as set forth in § 23.84. A child who is unable to provide the necessary records, medical certificate or exemption may be excluded at the end of the 30-day period and in subsequent school years until the requirements of this subchapter are met.

(3) The child has not been immunized or is unable to provide immunization records on the first day of attendance for the school year due to being in foster care. A school shall comply with Federal laws pertaining to the educational rights of children in foster care, including the Fostering Connections to Success and Increasing Adoptions Act of 2008 (42 U.S.C.A. § § 670—679c). The child's foster parent shall have 30 days to provide immunization records to the school to show proof of immunization as set forth in § 23.83, a medical certificate as set forth in subsection (e) or to satisfy the requirements for an exemption as set forth in § 23.84. A child who is unable to provide the necessary records, medical certificate or exemption may be excluded at the end of the 30-day period and in subsequent school years until the requirements of this subchapter are met.

(4) The child obtains an exemption under § 23.84.

(h) *Temporary waiver.* The Secretary may issue a temporary waiver of the immunization requirements in § 23.83. The details of the temporary waiver will be set out in a notice published

in the *Pennsylvania Bulletin*. A temporary waiver may be issued under either of the following circumstances:

(1) The Centers for Disease Control and Prevention, United States Department of Health and Human Services, recognizes a Nationwide shortage of supply for a particular vaccine.

(2) In the event of a disaster impacting the ability of children transferring into a school to provide immunization records.

Authority

The provisions of this § 23.85 amended under section 1303 of the Public School Code of 1949 (24 P. S. § 13-1303); section 16(a)(6) and (b) of the Disease Prevention and Control Law of 1955 (35 P.S. § 521.16(a)(6) and (b)); and sections 2102(g) and 2111 of The Administrative Code of 1929 (71 P.S. § § 532(g) and 541).

Source

The provisions of this § 23.85 amended through September 17, 1982, effective August 1, 1983, 12 Pa.B. 3288; amended August 22, 1997, effective August 23, 1997, 27 Pa.B. 4317; amended May 28, 2010, effective August 1, 2011, 40 Pa.B. 2747; amended March 3, 2017, effective August 1, 2017, 47 Pa.B. 1300. Immediately preceding text appears at serial pages (349629) to (349631).

Cross References

This section cited in 22 Pa. Code § 405.49 (relating to immunizations); and 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings).
