

District of Columbia Regulations

Department of Health

ADOPTED RULE

Vol. 68, No. 48, District of Columbia Register 2021-11-26 pp.12467-12472

PUBLICATION DATE: 11/26/2021

ACTION DATE: 11/03/2021

EFFECTIVE DATE: 11/26/2021

PUBLICATION TYPE: Register

ADOPTED EMERGENCY RULE

REGISTER SOURCE: Vol. 68, No. 33, District of Columbia Register 2021-08-13 pp.8156-8162

PUBLICATION DATE: 08/13/2021

ACTION DATE: 08/04/2021

EFFECTIVE DATE: 08/04/2021

EXPIRATION DATE: 12/02/2021

PUBLICATION TYPE: Register

PROPOSED RULE

REGISTER SOURCE: Vol. 68, No. 33, District of Columbia Register 2021-08-13 pp.8156-8162

PUBLICATION DATE: 08/13/2021

ACTION DATE: 08/04/2021

COMMENT DEADLINE: 09/13/2021

PUBLICATION TYPE: Register

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the District of Columbia Department of Health (Department) pursuant to Section 1 of An Act To Authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases ("Communicable and Preventable Diseases Act"), approved August 11, 1939, 53 Stat. 1408, D.C. Official Code §§ 7-131 *et seq.* (2018 Repl.), and Mayor's Order 2021-004, dated January 11, 2021, hereby gives notice of the adoption of the following amendments to Chapter 1 (Protection of Public Health) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking amends the time reporting requirements of 22-B DCMR § 129 (Immunization: Reports and General Provisions) to require any health care provider or health organization to report the administration of all vaccines within twenty-four (24) hours of providing any vaccination dose, regardless of the age of the vaccinated person. It requires health care providers and health organizations to report all vaccinations to the District of Columbia Department of Health using the designated system for reporting, which is currently the District of Columbia Immunization Information System (DOCIIS). Further, to ensure the consistent use of terminology, 22-B DCMR § 199 (Definitions), is amended to include licensed pharmacists among those covered by the term "Health Care Provider," and adds definitions of other relevant terms.

Action is necessary because the spread of contagious diseases, including COVID-19, is an imminent threat to the health,

safety, and welfare of District residents. These regulations, which require the prompt reporting of vaccinations, enable the District to take targeted actions to mitigate and stop the spread of contagious diseases. Therefore, it is necessary, now and in the future, for the District to have a regulatory framework which would provide up-to-date information about the administration of vaccines to effectively oversee the efficient use and distribution of vaccines in the District.

The Proposed Rulemaking was published in the *District of Columbia Register* on August 13, 2021, at 68 DCR 008156. No comments were received. No changes have been made from the proposed rulemaking. This rulemaking was adopted as final on November 3, 2021 and shall become effective upon publication in the *District of Columbia Register*.

Chapter 1, PROTECTION OF PUBLIC HEALTH, of Subtitle B, PUBLIC HEALTH AND MEDICINE, of Title 22 DCMR, HEALTH, is amended as follows:

Section 129, IMMUNIZATION: REPORTS AND GENERAL PROVISIONS, is amended to read as follows:

129 IMMUNIZATION: REPORTS AND GENERAL PROVISIONS

129.1 Each health care provider and health organization shall report the administration of each dose of any immunization to the Department within twenty-four (24) hours after the administration of the immunization.

129.2 For purposes of this section, the term "health organization" means any entity in the District of Columbia that provides vaccinations, including organizations with a COVID-19 Vaccination Provider Agreement with the Centers for Disease Control and Prevention (CDC) and receiving publicly funded COVID-19 vaccine.

129.3 To comply with reporting requirement in § 129.1, a health care provider or health organization shall use the system designated by the Department for reporting the administration of a vaccine to the Department, such as the District of Columbia Immunization Information System (DOCIIS).

129.4 Each report shall include the following information:

(a) Demographic information for each person vaccinated, including:

- (1) The person's full name, including any suffix, nickname, or alternate surname that may apply;
- (2) The person's date of birth and, for newborns, the name of the hospital that delivered the newborn;
- (3) The person's social security number, if applicable;
- (4) The person's Medicaid number, if applicable;
- (5) The name of the person's parent or guardian, if the person is younger than eighteen (18) years of age;
- (6) The person's address;
- (7) The person's phone number;
- (8) The person's race or ethnicity;
- (9) The person's insurance status and the name of the insurer, if applicable; and
- (10) The person's gender;

(b) New and historical immunization data, including:

- (1) The type of each vaccine administered;
- (2) The date the vaccine was administered;
- (3) The manufacturer and lot number of the vaccine;
- (4) Verification that the vaccine information statement was given to the recipient of the vaccine and the publication date

of the vaccine information statement for the vaccine given; and

(5) The funding source of the vaccine;

(c) Provider information, including:

(1) The provider's ID;

(2) The provider's name;

(3) The provider's address;

(4) The provider's phone number; and

(5) The name of the person who administered the vaccine; and

(d) Medical and clinical information, including:

(1) Any adverse reaction to active immunization;

(2) Information about medical contraindications, including:

(A) Whether contraindication is temporary or permanent; and

(B) The antigen for which there was a contraindication;

(3) Information about exemption from vaccination, including:

(A) Reason for the exemption;

(B) The antigen for which the exemption applies;

(C) The date the exemption expires, if applicable;

(4) Copy of laboratory results as evidence of immunity; and

(5) Varicella disease status including certification of infection with varicella that includes either:

(A) A copy of laboratory results indicating varicella disease or immunity to varicella; or

(B) A health care provider's diagnosis or verified history of varicella or herpes zoster disease that includes the month and year of the disease.

129.5 Each of the following entities shall report the immunization history of an individual to the Department in the manner and form the Department prescribes:

(a) Each public, private, parochial, or charter school shall submit certification of immunization for each noncompliant student as determined by the Department within ten (10) business days after notification from the Department; and

(b) Each child development facility shall submit certification of immunization for each noncompliant child as determined by the Department within ten (10) business days after notification from the Department.

129.6 A post-secondary institution is not required to report active immunization, but the Department encourages post-secondary institutions to report immunizations for students currently enrolled in the institution.

129.7 Information disclosed to the Department pursuant to §§ 129.1, 129.4, 129.5 and 129.6 shall be kept confidential and shall not be used or disclosed to a third party, except as provided in this subsection:

(a) The Department may use patient-specific immunization information to produce aggregate immunization coverage reports;

(b) The Department may use immunization information to produce official immunization records for individuals;

(c) The Department may use or disclose individually identifiable immunization information without the consent of the person to whom the information pertains to notify the following individuals or entities of due dates for immunizations or missed or overdue immunizations according to the schedule recommended by the Advisory Committee on Immunization Practices (ACIP) to the following:

- (1) The person;
- (2) The person's parent or guardian;
- (3) The person's health care provider or insurer;
- (4) A child development facility in which the person is enrolled;
- (5) A school in which the person is enrolled; and

(d) Except as provided in paragraphs (a) through (c) of this subsection, the Department may disclose a person's individually identifiable information to a third party only with the written consent of the person, or the person's parent or guardian if the person is under eighteen (18) years of age or an unemancipated adult.

129.8 Notwithstanding the requirements of §§ 130 through 154 specifying minimum and maximum intervals between administration of vaccinations, a vaccine administered four (4) days or less than the minimum interval or age shall be a valid dose. This subsection shall not apply to the minimum intervals between live antigen vaccinations, including:

- (a) Measles, mumps, rubella (MMR); and
- (b) Varicella.

129.9 A vaccine administered five (5) or more days before the minimum interval or age shall not be counted as a valid dose and shall be repeated as age and interval-appropriate. Subsequent doses shall be repeated or spaced, as age and interval appropriate, in accordance with §§ 130 through 154, and the recommendations of ACIP, if applicable.

129.10 A combination vaccine may be administered as an alternate for any dose of the vaccine series for which it is licensed.

129.11 A person claiming religious exemption from immunization for a child shall file the religious exemption form at the beginning of each school year for each child for which the exemption is claimed. A person electing to opt-out of immunization with the HPV vaccination for a child shall file the HPV vaccination opt-out form at the beginning of each school year for each child for which there is an opt-out to be filed.

129.12 When a health care provider administers a vaccine in the course of his or her employment by a health organization, the health organization and the health care provider are jointly responsible for compliance with this section.

129.13 Any health care provider or health organization that fails to comply with the provisions of this section shall be subject to criminal, civil, and administrative penalties authorized by law, including:

- (a) Sanctions or penalties for violating D.C. Official Code § 7-2307, including civil fines and summary suspension or revocation of licenses, registrations, and certificates;
- (b) Disciplinary action by the appropriate licensing body; and
- (c) Suspension or termination of participation of the health care provider or health organization in the District of Columbia COVID-19 Vaccination Program.

Section 199, DEFINITIONS, is amended as follows:

The following new definition is added after the definition of "Diphtheria tetanus whole-cell pertussis (DTP)" :

District of Columbia Immunization Information System (DOCIIS) the system for reporting the administration of a vaccine to the District of Columbia Department of Health.

The definition of "Health Care Provider" is amended to read as follows:

Health Care Provider - a person licensed in the District of Columbia to give health care including a Registered Nurse, Medical Doctor, Nurse Practitioner, Pharmacist, or Physician Assistant.

The following new definitions are added after the definition of "Human papilloma virus (HPV)" :

Immunity - the ability of a person to resist being infected by a disease or toxin by the action of specific antibodies or sensitized white blood cells.

Immunization - the process by which a person becomes protected against a disease through vaccination. This term is often used interchangeably with vaccination or inoculation.

The following new definitions are added after the definition of "Unvaccinated" :

Vaccination - the act of introducing a vaccine into the body to produce immunity to a specific disease. Vaccine - a product that stimulates a person's immune system to produce immunity to a specific disease that are administered through needle injections, by mouth, or by spray into the nose .