Agency Name: Department of Health and Environmental Control

Statutory Authority: 44-29-40 and 44-29-180

Document Number: 4434

Proposed in State Register Volume and Issue: 37/11

House Committee: Medical, Military, Public and Municipal Affairs Committee

Senate Committee: Medical Affairs Committee

120 Day Review Expiration Date for Automatic Approval: 05/16/2014

Final in State Register Volume and Issue: 38/6

Status: Final

Subject: Vaccination, Screening and Immunization Regarding Contagious Diseases

History: 4434

By Date Action Description Jt. Res. No. Expiration Date

- 11/22/2013 Proposed Reg Published in SR

- 01/16/2014 Received by Lt. Gov & Speaker 05/16/2014

S 01/21/2014 Referred to Committee

H 01/21/2014 Referred to Committee

H 02/27/2014 Resolution Introduced to Approve 4808

- 05/16/2014 Approved by: Expiration Date

- 06/27/2014 Effective Date unless otherwise

provided for in the Regulation

Document No. 4434

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-29-40 and 44-29-180 (2002 & Supp. 2012)

61-8. Vaccination, Screening and Immunization Regarding Contagious Diseases

**Synopsis:**

This regulation defines immunization requirements for school admittance; exemptions from immunization requirements; reporting requirements; and compliance authority for required immunizations. The regulation was promulgated by the DHEC Board in more or less its current form on June 12, 1979, published in the State Register and effective on April 11, 1980, superseding the previous R.61-8, and last amended on April 23, 1992.

This regulation amendment updates language regarding religious exemption criteria; clarifies compliance of the reporting requirements with the federal Family Educational Rights and Privacy Act (FERPA); facilitates compliance with the McKinney-Vento Homeless Assistance Act; reflects the use of electronic forms in addition to paper copies provided by the Department; makes general editorial revisions to clarify and improve the language; and amends the title of the regulation to more accurately reflect the subject matter.

A Notice of Drafting for the proposed amendments was published in the *State Register* on September 27, 2013.

Section-by-Section Discussion of Revisions:

The Title describes the subject of the regulation. The amendment more accurately reflects the scope and subject.

Section I provides the immunization requirements for school and childcare attendance. Amendments simplify and clarify the regulation.

Section II discusses the allowed exemptions from immunization requirements. Amendments update language regarding exemption criteria and reflect the use of electronic forms in addition to paper copies provided by the Department. The reference to the thirty-day time limit for special exemptions is removed from the regulation to facilitate compliance with the McKinney-Vento Homeless Assistance Act.

Section III provides the reporting requirements of the regulation. Amendments clarify compliance with the federal Family Educational Rights and Privacy Act (FERPA).

Section IV addresses compliance. The amendment provides clarification.

Section V currently states that the regulation is effective upon completion of legislative review. The amendment removes this section as it is unnecessary. The effective date determined by the Administrative Procedures Act is the date of publication in the State Register.

**Instructions:** Due to numerous revisions, replace R.61-8 in its entirety with this amendment.

**Text:**

61-8. Immunization Requirements for School and Childcare Attendance.

Statutory Authority: S.C. Code Sections 44-29-40(A) and 44-29-180 (2002 & Supp. 2012).

Table of Contents:

I. REQUIREMENTS FOR SCHOOL AND CHILDCARE ATTENDANCE.

II. EXEMPTIONS.

III. REPORTING REQUIREMENTS.

IV. COMPLIANCE.

I. REQUIREMENTS FOR SCHOOL AND CHILDCARE ATTENDANCE.

A. No child or person shall be admitted to or retained in any public, private, or parochial school, grades kindergarten through twelve (K-12), or any public or private childcare facility as defined in Code Section 63-13-20 without a valid South Carolina Certificate of Immunization. To be valid, the South Carolina Certificate of Immunization must be signed by a licensed physician or his/her authorized representative. Exemptions to this requirement are authorized in Section II of this regulation.

B. A South Carolina Certificate of Immunization must be presented to school or childcare officials on admission and as required to document any subsequent immunizations required by the Department. School and childcare officials shall keep a copy of the Certificate with the child's or person's record.

C. The standard to obtain a South Carolina Certificate of Immunization shall be compliance with the schedule of required immunizations for school and childcare attendance published by the Department. The schedule of required immunizations shall apply to any child attending school or childcare after the effective dates indicated in the schedule unless otherwise stipulated by the Department .

D. Blank forms for the South Carolina Certificate of Immunization will be provided to licensed physicians and their authorized representatives by the Department . The Certificate of Immunization may also be generated for signature using the statewide immunization registry.

E. Registered family childcare homes are exempt from requirements of this regulation.

F. “Childcare facility” and “childcare” in this regulation have the meaning given in Code Section 63-13-20 and are intended to include the terms child care, childcare facility, day care facility, child day care facility, day care, and family day care homes, as used in Code Section 44-29-180.

II. EXEMPTIONS.

A. Students may be exempt from the immunization requirements of this regulation for the following reasons:

1. Medical Exemption.

A Medical Exemption, may be granted when a licensed physician has determined, for medical reasons, that a particular vaccine(s) required by this regulation is not advisable for the child. The exemption is granted when the physician or his/her authorized representative completes and signs the South Carolina Certificate of Immunization containing the Medical Exemption. The physician must indicate whether the exemption is permanent or temporary. If the exemption is temporary, an updated South Carolina Certificate of Immunization showing proof of immunization must be presented to the school or childcare by the end of the exemption period.

2. Religious Exemption.

A South Carolina Certificate of Religious Exemption may be granted to any student whose parent, guardian, or person in loco parentis signs the appropriate section of the South Carolina Certificate of Religious Exemption stating that one or more immunizations conflicts with their religious beliefs. The Certificate of Religious Exemption form may only be obtained from the local health department.

3. Special Exemption.

A South Carolina Certificate of Special Exemption, signed by the school principal , authorized representative, or childcare director may be issued to transfer students while awaiting arrival of medical records from their former area of residence or to other students who have been unable to secure immunizations or documentation of immunizations already received. At the expiration of this special exemption, the student must present a valid South Carolina Certificate of Immunization, or a valid South Carolina Certificate of Medical Exemption, or a valid South Carolina Certificate of Religious Exemption. Completion of the Medical Exemption section of the Certificate of Immunization satisfies the requirement for the South Carolina Certificate of Medical Exemption.

B. Blank forms for the South Carolina Certificate of Special Exemption will be provided by the Department to school and childcare administrators.

III. REPORTING REQUIREMENTS.

Forty five (45) calendar days after the beginning of each school year, school principals must submit to the local health department, on forms provided by the Department, the numbers of students admitted to school with South Carolina Medical Exemptions, South Carolina Certificates of Religious Exemption, and South Carolina Certificates of Special Exemption as provided in Section II of this regulation.

IV. COMPLIANCE.

Representatives of the Department will audit school and childcare records to insure compliance with this regulation.

**Fiscal Impact Statement:**

This is an amendment to an existing regulation, making no substantive change to current requirements and practices. The amendments should have no fiscal impact.

**Statement of Need and Reasonableness:**

The statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: Amendment of R.61-8, Vaccination, Screening, and Immunization Regarding Contagious Diseases.

Purpose: The purpose of this regulation is to define immunization requirements for school admittance; exemptions from immunization requirements; reporting requirements; and compliance authority for required immunizations. The regulation was promulgated by the DHEC Board in more or less its current form on June 12, 1979, published in the State Register and effective on April 11, 1980, superseding the previous R.61-8, and last amended on April 23, 1992.

This regulation amendment updates language regarding religious exemption criteria; clarifies compliance of the reporting requirements with the federal Family Educational Rights and Privacy Act (FERPA); facilitates compliance with the McKinney-Vento Homeless Assistance Act; reflects the use of electronic forms in addition to paper copies provided by the Department; makes general editorial revisions to clarify and improve the language; and amends the title of the regulation to more accurately reflect the subject matter.

Legal Authority: S.C. Code Sections 44-29-40 and 44-29-180 (2002 & Supp. 2012).

Plan for Implementation: No or negligible additional effort or impact on other program areas is expected from the amendments.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The amendment to this regulation is needed and reasonable to update language regarding religious exemption criteria; clarify compliance of the reporting requirements with the federal Family Educational Rights and Privacy Act (FERPA); reflect the use of electronic forms in addition to paper copies provided by the Department; make general editorial revisions to clarify and improve the language; and amend the title of the regulation to more accurately reflect the subject matter.

DETERMINATION OF COSTS AND BENEFITS:

There will be no costs associated with this regulation amendment. The benefits of these regulation amendments are clarification of compliance with federal constitutional and statutory requirements and improvement in the regulation language to more accurately reflect the subject matter.

UNCERTAINTIES OF ESTIMATES:

Uncertainties are not expected since this regulation is already in effect and amendments are requested to update and clarify language.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation will continue to promote public health by supporting immunization coverage for vaccine preventable diseases in South Carolina children attending school and childcare.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no effect on the environment. Failure to amend the regulation will perpetuate outdated and unclear language and uncertainty as to the intent of the regulation.

**Statement of Rationale:**

The Department is amending this regulation to update language regarding religious exemption criteria; clarify compliance of the reporting requirements with the federal Family Educational Rights and Privacy Act (FERPA); facilitate compliance with the McKinney-Vento Homeless Assistance Act; reflect the use of electronic forms in addition to paper copies provided by the Department; make general editorial revisions to clarify and improve the language; and amend the title of the regulation to more accurately reflect the subject matter.