

## **PROPOSED RULES AMENDMENT PREAMBLE**

### **Brief explanation of proposed rule amendment**

The Texas Higher Education Coordinating Board proposes amendments to Chapter 21, Subchapter T, Section 21.612 and 21.614 of Board rules concerning the vaccination against bacterial meningitis for entering students at public or private or independent institutions of higher education.

The intent of the amendment to Section 21.612 (1)(A) is to expand the definition of a new student to include a student previously exempt under Subsection 21.614 (a)(2) through (5), should their exception no longer apply. The proposed amendment in Section 21.614 (b)(2) is to delete the requirement that a student seeking an exception from an initial bacterial meningitis vaccination or booster dose for reasons of conscience, including a religious belief, be required to use a conscientious objection form obtained from the Department of State Health Services (DSHS). The amended rules will allow a student to use a form developed by the Texas Higher Education Coordinating Board, which can be downloaded from the agency website, notarized, and filed with the student's institution of higher education.

### **Fiscal note and estimated cost to state and local government (or estimated reduction in costs to state and local government, and/or estimated loss of increase in revenue to state and local government)**

MacGregor M. Stephenson, Assistant Commissioner for Academic Affairs and Research, has determined that for the first five years there will be no fiscal implications for state or local governments as a result of amending the rule listed above.

### **Public benefit and local employment impact**

Dr. Stephenson has also determined that for the first five years the amendments are in effect, the public benefits anticipated as a result of administering the section will be an easing of the burden of requesting the form from the DSHS website, and having it sent to the student (which may take up to two weeks). It will also alleviate confusion for institutional representatives in determining when a student is no longer exempt from the immunization requirement under a specific exception. There is no effect on small businesses. There is no impact on local employment.

### **Request for comments**

Comments on the proposed amendments may be submitted by mail to MacGregor M. Stephenson, Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas, 78711 or via email at [WAARcomments@theccb.state.tx.us](mailto:WAARcomments@theccb.state.tx.us). Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

### **Statutory basis for amendment**

The amendments are proposed under the Texas Education Code, Chapter 51, Section 51.9192 (e), which provides the Coordinating Board with the authority to adopt rules to administer the section.

### **Statutes, articles, codes affected by the proposed action**

The amendments affect the Texas Education Code, Chapter 51, Subchapter Z, Section 51.9192.

### **Certification of review by legal counsel**

The Coordinating Board certifies that the proposed rules have been reviewed by legal counsel and found to be within the agency's authority to adopt.

## Chapter 21, Student Services

### Subchapter T, The Vaccination Against Bacterial Meningitis for Entering Students at Public and Private or Independent Institutions of Higher Education

21.610 Purpose

21.611 Authority

21.612 Definition

21.613 Immunization Requirement

21.614 Exceptions

21.610 -21.611 No changes.

21.612 Definition

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Entering student includes:

(A) New student--a first-time student of an institution of higher education or private or independent institution of higher education, including a student who transfers to the institution from another institution. A student who was previously exempt under Subsection 21.614 (a) (2) through (5) will be treated as a new student, should the exception no longer apply.

(B) Returning student--a student who previously attended an institution of higher education or private or independent institution of higher education before January 1, 2012, and who is enrolling in the same or another institution of higher education or private or independent institution of higher education following a break in enrollment of at least one fall or spring semester.

(2) Evidence of Vaccination--Acceptable evidence of vaccination or receiving a booster dose includes:

(A) the signature or stamp of a physician or his/her designee, or public health personnel on a form which shows the month, day, and year the vaccination dose or booster was administered;

(B) an official immunization record generated from a state or local health authority;  
or

(C) an official record received from school officials, including a record from another state.

(3) Health practitioner--Any person authorized by law to administer a vaccination.

(4) Institution of Higher Education--Any public technical institute, public junior college, public senior college or university, medical or dental unit or other agency of higher education as defined in Texas Education Code, Section 61.003(8).

(5) Private or independent institution of higher education--Includes only a private or independent college or university as defined in Texas Education Code Section 61.003(15).

(6) An online and other distance education course--A course in which the instructor and students are not in the same location. An online course typically involves web-based instruction, but might also include correspondence instruction. An online or other distance education course that includes a face-to-face component, including meeting in a testing laboratory with other students, or meeting in a classroom to receive interactive video instruction does not qualify as an online or other distance education course for the purposes of this subchapter.

21.613 No changes.

21.614 Exceptions

(a) A student is not required to submit evidence of receiving the vaccination against bacterial meningitis or evidence of receiving a booster dose if:

(1) the student is 30 years of age or older by the first day of the start of the semester, or

(2) the student is enrolled only in online or other distance education courses; or

(3) the student is enrolled in a continuing education course or program that is less than 360 contact hours, or continuing education corporate training; or

(4) the student is enrolled in a dual credit course which is taught at a public or private K-12 facility not located on a higher education institution campus; or

(5) the student is incarcerated in a Texas prison.

(b) A student, or a parent or guardian of a student, is not required to submit evidence of receiving the vaccination against bacterial meningitis if the student, or a parent or guardian of a student, submits to the institution:

(1) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the vaccination required would be injurious to the health and well-being of the student; or

(2) an affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including a religious belief. ~~[A conscientious exemption form from the Texas Department of State Health Services must be used.]~~

(c) The exception noted in subsection (b)(2) of this section does not apply during a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or

extraordinary law enforcement emergency declared by an appropriate official or authority from the Texas Department of State Health Services and is in effect for the location of the institution the student attends.