

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Interim Director of the Department of Health, pursuant to Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Section 6512 (Administration of Immunizations and Vaccinations by Pharmacists) of Chapter 65 (Pharmacists) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations ("DCMR").

The Immunization of School Students Act of 1979, effective September 28, 1979 (D.C. Law 3-20; D.C. Official Code § 38-501 *et seq.*), requires all schools in the District of Columbia, including private, parochial, and independent schools, to verify student compliance with immunization requirements listed in 22-B DCMR § 129 as part of enrollment and attendance. Approximately 20% of students remain noncompliant with school-required vaccinations and would be subject to exclusion if not brought into compliance. Demand for vaccinations increases at the start of a new school year and into the fall, and often exceeds primary care capacity. Pursuant to the Third Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19, published August 24, 2020 (85 FR 52136), and the Public Readiness and Emergency Preparedness Act, approved December 30, 2005 (Pub. L. 109-148; 119 Stat. 2818) ("PREP Act"), pharmacists have been able to independently order and administer COVID-19, influenza, and routine pediatric immunizations to children age 3 and older. The ability of pharmacists to independently order and administer vaccinations, and to vaccinate children ages three (3) through eleven (11) has supported placed-based and school-located immunization opportunities outside of traditional primary care and pediatrician offices. Thus, pharmacists are a valued partner in maintaining ready access to routine pediatric immunization for children.

This rulemaking will permit pharmacists, who have been certified by the Board of Pharmacy to administer immunizations and vaccinations, to continue administering vaccinations that the Advisory Committee on Immunization Practices ("ACIP") recommends to persons age three (3) years through eighteen (18) years, to any person age three (3) through seventeen (17) with parental consent according to ACIP's standard immunization schedule, after May 11, 2023 when the federal public health emergency ended. Without this rulemaking, pharmacists would only be able to vaccinate children age twelve (12) and older.

This rulemaking expands the patient age that pharmacists who have been certified by the Board of Pharmacy to administer immunizations and vaccinations can immunize from twelve (12) years and older to three (3) years and older with parental consent or valid identification if eighteen (18) or older, and allows pharmacy interns and pharmacy technicians to administer FDA authorized or FDA-licensed COVID-19 vaccines, or seasonal influenza vaccinations, under the pharmacist's direct supervision to an individual who is eighteen (18) years of age or older. Allowing pharmacists to administer vaccinations to children three (3) and older is consistent with the

immunization authority under which pharmacists have performed since 2021 under the PREP Act.

However, a written protocol and prescription or a standing order with a District of Columbia-licensed physician will be required for pharmacists to administer vaccinations. The only exception to the written protocol and prescription or a standing order with a District of Columbia-licensed physician requirement will be COVID-19 vaccinations and seasonal influenza vaccinations, for which the federal Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19 (85 FR 15198, Mar. 17, 2020), as amended, still preempts District law through December 31, 2024.

Emergency action is necessary for the immediate preservation of the public health because it will protect the health of school-age children from vaccine-preventable diseases by facilitating convenient access to routine pediatric immunizations at neighborhood pharmacies, offering families more options with a larger range of available hours. This emergency rule was adopted by the Interim Director of DOH on June 22, 2023, and became effective immediately on that date. The emergency rule will remain in effect for one hundred twenty (120) days after the date of its effectiveness and expire on October 20, 2023, or upon publication of a Notice of Final Rulemaking in the *District of Columbia Register*, whichever occurs first.

The Interim Director also gives notice of the Interim Director's intent to take final rulemaking action to adopt this amendment in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

Section 6512, ADMINISTRATION OF IMMUNIZATIONS AND VACCINATIONS BY PHARMACISTS, of Chapter 65, PHARMACISTS, of Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, of the DCMR is amended as follows:

Subsection 6512.5 is amended to read as follows:

- 6512.5 (a) Except as provided in paragraph (b), a pharmacist certified by the Board to administer immunizations and vaccinations shall only administer immunizations and vaccinations pursuant to:
- (1) A written protocol signed and dated by a District of Columbia licensed physician authorizing the administration upon receipt of a written protocol; and
 - (2) (A) A valid prescription; or
(B) Physician standing order.
- (b) The requirement for a written protocol and prescription or a standing order with a District of Columbia licensed physician shall not apply to FDA-authorized or FDA-licensed COVID-19 vaccines, or seasonal influenza vaccinations, until November 1, 2024, or until Sections V(f) and V(h) of

the Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19 (85 FR 15198, Mar. 17, 2020), as amended, expire, whichever occurs later.

Subsection 6512.7 is amended as follows:

Paragraph (c) is amended as follows:

Subparagraph (5) is amended by striking the phrase “; and” and inserting “; or” in its place.

Subparagraph (6) is amended to read as follows:

- (6) Any person aged three (3) and older with parental consent, or valid identification if eighteen (18) or older, for any vaccination that the Advisory Committee on Immunization Practices (“ACIP”) recommends according to ACIP’s standard immunization schedule;

Subsections 6512.9 and 6512.10 are amended to read as follows:

6512.9 Except as provided in § 6512.10, a pharmacist certified by the Board of Pharmacy to administer immunizations and vaccinations shall not administer an immunization or vaccination to any individual younger than three (3) years old.

6512.10 A pharmacist certified by the Board of Pharmacy to administer immunizations and vaccinations shall only administer an immunization or vaccination to an individual under the age of three (3) upon a referral from a physician who has an established physician-patient relationship with the patient.

Subsection 6512.12 is amended to read as follows:

6512.12 A pharmacist certified to administer immunizations and vaccinations may permit a registered pharmacy intern or registered pharmacy technician to administer FDA-authorized or FDA-licensed COVID-19 vaccines, or seasonal influenza vaccinations, under the pharmacist’s direct supervision to an individual who is eighteen (18) years of age or older; provided, that the registered pharmacy intern or registered pharmacy technician has successfully completed a Board of Pharmacy-approved ACPE-approved course meeting the requirements of § 6512.2(b)(3).

All persons desiring to comment on the subject matter of this emergency and proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *District of Columbia Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002 at Phillip.Husband@dc.gov.

Copies of the proposed rules may be obtained during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays, at the address listed above, or by contacting Angli Black, Paralegal Assistant, at Angli.Black@dc.gov, (202) 442-5977.