

This rule was filed as 7 NMAC 5.3

TITLE 7 HEALTH
CHAPTER 5 VACCINATIONS AND IMMUNIZATIONS
PART 3 RELIGIOUS EXEMPTION FROM SCHOOL IMMUNIZATION

7.5.3.1 ISSUING AGENCY: Public Health Division Department of Health
[10/31/96; Recompiled 10/31/01]

7.5.3.2 SCOPE: These regulations govern children seeking exemptions from any of the immunizations required for public, private, parochial elementary and secondary schools, as well as all those pupils in early childhood education facilities under the New Mexico department of education, and all children in licensed preschool or child care centers, except for those children who have been legally exempted from these immunizations including: diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, rubella and hepatitis B.
[10/31/96; Recompiled 10/31/01]

7.5.3.3 STATUTORY AUTHORITY: This regulation has been promulgated by the secretary of the department of health under the authority of Section 9-7-6, 24-1-3(N) and Section 24-5-3 NMSA,1980 Enforcement of this regulation is the responsibility of the public health division of the NM department of health.
[01/14/76, 10/31/96, 10/31/96; recompiled 10/31/01]

7.5.3.4 DURATION: Permanent.
[10/31/96; Recompiled 10/31/01]

7.5.3.5 EFFECTIVE DATE: October 31, 1996, unless a later date is cited at the end of a Section or Paragraph.
[10/31/96; Recompiled 10/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

7.5.3.6 OBJECTIVE: The objective is to establish standards and procedures for obtaining exemptions for children whose duly licensed physician attests that any of the required immunizations would seriously endanger the life or health of the child or whose parent or legal guardian attests that their religious beliefs prohibit the administration of immunizing agents.
[10/31/96; Recompiled 10/31/01]

7.5.3.7 DEFINITIONS:

- A.** "Administrative authority" means the superintendent, principal, or the designee of such person.
- B.** "Director of the public health division" organization hierarchy that the immunization program is located.
- C.** "Public health division regulations" mean those regulations adopted by the public health division pursuant to the authority granted in Section 24-5-1 to 24-5-6 NMSA 1978 Comp., and including an immunization schedule.
- D.** "Licensed physician" means physician licensed to practice medicine or osteopathic medicine in New Mexico, another state or territory.
- E.** "Required immunizations" means those immunizations against diseases deemed to be dangerous to the public health by the public health division and set forth in its immunization schedule effective at date of enrollment.
- F.** "Satisfactory evidence of commencement of and completion of immunization" means satisfactory evidence of a person having begun the process of immunizations, certificate or record signed by a duly licensed physician or other recognized public or private health facility stating that the person has received at least the first in the series of required immunizations and is proceeding with the immunizations according to the prescribed schedule. Persons enrolling in schools or early childhood educational facilities, and all children in licensed preschool or child care centers who have begun the process of immunizations shall have one months [sic] following

the date of enrollment to complete the required immunizations and submit satisfactory evidence of completing the required immunizations or have continued the process of the required series.

G. "Satisfactory evidence of immunization" means a statement, certificate or record signed by a duly licensed physician or other recognized licensed health facility stating that the required immunizations have been given to the person.

[10/31/96; Recompiled 10/31/01]

7.5.3.8 EXEMPTIONS FROM IMMUNIZATION REQUIREMENT:

A. Exemption by membership in recognized religious denomination: Any parent or guardian belonging to a recognized religious denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing and who seek exemption from the compulsory student immunization requirements of Section 24-5-2 NMSA 1978 for their child shall present affidavits from an officer of the denomination stating that the parents or guardians are bona fide members of the recognized denomination and the religious teaching of the denomination requires upon prayer or spiritual means alone for healing. 7.1.1 [sic] Upon filing such affidavit, the child is exempt from legal requirement for a period not to exceed nine (9) months on the basis of any one certificate.

B. Exemption by certification of religious objection: A parent or guardian who cannot obtain an affidavit from an officer of a recognized denomination as described in Section 7-1 [sic], but whose religious beliefs, held either individually or jointly with others, do not permit the administration of vaccine or other immunizing agents, may apply for an exemption from immunization by submitting a certificate of conscientious objection to immunization.

C. The certificate must be signed in the presence of a notary public.

D. Upon presentation of a notarized certificate to the principal of the school to which a child seeks enrollment, the principal shall allow the either approved or disapproved by the director of the public health division.

E. The director of the public health division or a qualified designee may disapprove a certificate for failure to fully complete it or for failure to allege beliefs and practices sufficient to warrant an exemption from immunizations for religious reasons consistent with the legislative intention of Section 24-5-3, as explained in opinion of the attorney general no.75-69, dated December 8, 1975.

F. Every principal receiving a certificate of conscientious objection to immunization shall deliver the certificate to the superintendent of schools for the district by which the principal is employed within seven (7) days of the time the certificate has been received. The superintendent shall note on his or her records that a religious exemption has been claimed on behalf of each child so claiming and shall forward the original certificate to the director of public health division within seven (7) days of the time it has been received from the school principal.

G. Within sixty (60) days of receipt of a certificate of conscientious objection to immunization, the director of the public health division, or the designee shall review the certificate to determine whether the certificate has been duly completed and notarized. The public health division shall investigate as may be appropriate to ascertain that the exemption is a bona fide claim of religious beliefs and practices. The public health director or the designee shall advise in writing the parents or guardian of the subject child, and the superintendent of the school district which the child is attending, and the principal of the school at which the child has been conditionally enrolled that the claimed religious exemption has been approved or disapproved. In the case of disapproval of a claim to religious exemption, the director of the public health division or designee shall state the reasons in the letter of notification.

H. Every parent or guardian of a child whose claim on behalf of that child for religious exemption from the student immunization requirements is disapproved by the director of the public division shall have the right to pursue an administrative appeal from such disapproval. The manner and method of administrative appeal shall be determined by the secretary of the New Mexico department of health.

[01/14/76, 10/31/96; Recompiled 10/31/01]

HISTORY OF 7.5.3 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center: HSSD 76-1, Religious Exemption From School Immunization, 1/14/76.

History of Repealed Material: [RESERVED]