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Measles Outbreak and Implications for Connecticut Schools

Measles is spreading rapidly across the United States. As of April 26th, the CDC has confirmed 704 individual cases of measles in 22 states. This is the largest number of cases reported in the U.S. since 1994, and since measles was declared eliminated roughly twenty years ago.

As of April 12th, the Connecticut Department of Public Health (DPH) has confirmed there have been three cases of measles in Connecticut for 2019. In comparison with other areas around the country, immunization rates in Connecticut generally remain high, per immunization data published by the DPH on a statewide and county-wide level. Last week, in an effort to increase public awareness on this important issue, and with the goal of influencing increased focus on immunization rates, the DPH decided to publish immunization rate data at the school level for schools across CT. This data was published on May 3rd. However, due to reported inaccuracies in some of the school data regarding exemption rates, DPH has indicated that it will be releasing updated data this upcoming Friday, May 10th.

Given the seriousness of these developments, many schools are looking at their immunization policies and asking about proactive steps they should be taking.

At the outset, it is important to note that the law governing immunizations in Connecticut applies to both public and private schools. Under state law (Conn. Gen. Stat. § 10-204a), both public and private schools must require proof of immunization against specified diseases, including diphtheria, pertussis, tetanus, measles, mumps, rubella and other diseases, prior to permitting children to attend school. In a letter dated March 15, 2011, "Changes in the Immunization Requirements for School Entry," the State Department of Education described these immunization requirements.

Connecticut law provides for both medical and religious exemptions to the mandatory immunization requirements. To be eligible for a medical exemption, parents must provide a certificate from a physician, physician assistant, or advanced practice registered nurse stating that immunization is contraindicated because of the physical condition of the child, or, in the case of measles, mumps, or rubella, that the child already had a confirmed case of the disease. In order to receive a religious exemption, state law requires parents to provide a statement prior to school enrollment (and again before seventh grade) that immunization would be contrary to the religious beliefs of the child or of the parents or guardian of such child. In 2015, the law was amended to specifically require that this statement be notarized or otherwise formally acknowledged by (A) a judge of a court of record or a family support magistrate, (B) a clerk or deputy clerk of a court having a seal, (C) a town clerk, (D) a notary public, (E) a justice of the peace, (F) an attorney admitted to the Connecticut bar, or (G) a school nurse. Conn. Gen. Stat. § 10-204a(a)(3).

Both public and private schools must adhere to the requirements of state law and honor



properly authorized exemptions. Having said this, however, courts have recognized the authority of health officials to exclude unvaccinated individuals from school or other school programs to contain outbreaks. Most recently, a judge in Kentucky specifically upheld the authority of a health department to exclude a student from school (and from playing on his school's basketball team) for a period of time due to a local outbreak of chicken pox. Kunkel v. NKY Independent Health Department, Case No. 19-CI-00357 (Boone Cnty. Ct., 2019)

Below, we outline some proactive steps for schools to consider in connection with immunization requirements and recent outbreaks:

- Monitor DPH information and stay informed regarding current guidance from local and state health officials.
- Review your school's crisis response plan. The plan should have detailed steps that outline who is responsible for coordinating the health response, who and when the school will contact DPH, and how students and the community will be notified of developments.
- Consider informing your community about the concern, and the steps the school is taking to monitor outbreaks nationally and locally. Encourage staff and students to engage in healthy practices and to stay home and seek medical attention if they develop symptoms. This communication may also be used to alert families that in the event of an outbreak, the school will work closely with health officials and follow disease control measures, which may include excluding unvaccinated individuals from school for the duration of an outbreak or reasonable incubation period.
- Consider revising your health policies or student handbook to set expectations regarding how your school will respond in the event of an outbreak.
- Upon notice of a suspected case of measles or other similar disease, contact DPH immediately, so that DPH may investigate and confirm if appropriate. If there is a confirmed case, DPH will investigate further to identify potential contacts the person may have had, and unless the person is immune, DPH will typically recommends that the individual stay home for 21 to 28 days.

Finally, schools should continue to monitor legislative developments related to vaccinations and exemptions. Just yesterday, the Connecticut Attorney General released an opinion letter to state lawmakers affirming the constitutionality of a legislative proposal to eliminate the state's religious exemption for required immunizations. Though this opinion does not opine as to whether the legislature should take such action, this opinion may signal changes to come regarding Connecticut's current law.

Questions or Assistance:

If you have any questions regarding immunizations, please contact: Julie C. Fay at jfay@goodwin.com or (860) 251-5009; William J. Roberts at wroberts@goodwin.com or (860) 251-5051, or Lauren A. Cullen at lcullen@goodwin.com or (860) 251-5613.

For those interested in information regarding immunization laws in other states, visit the National Conference of State Legislatures at <http://www.ncsl.org/research/health/school-immunization-exemption-state-laws.aspx>.

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