The Texas Higher Education Coordinating Board (Coordinating Board) adopts on an emergency basis amendments to §§21.611, 21.612, and 21.614 concerning the vaccination against bacterial meningitis for entering students at public and private or independent institutions of higher education. The amendments are being adopted on an emergency basis pursuant to §2001.034 of the Government Code, which allows a state agency to adopt an emergency rule if a requirement of state or federal law requires adoptions of the rule on less than 30 days notice.

The Coordinating Board made the finding that the amendments to these sections should be adopted on an emergency basis, pursuant to §2001.034 of the Government Code, because Senate Bill 62 of the 83rd Texas Legislature passed both houses and was signed by the Governor, making it effective on October 1. As with the changes in law made by Senate Bill 62, the effective date for this rule is October 1, 2013. The newly amended statute will affect entering students enrolling in public and private or independent institutions of higher education on or after January 1, 2014. The next regular quarterly meeting of the Board is scheduled for October 24, 2013, which would not allow public institutions of higher education, or private or independent institutions of higher education adequate time for implementation to be in accord with the effective date of the bill. Therefore, the amendments to these sections must be adopted on less than 30 days notice pursuant to §2001.034 of the Government Code.

The intent of the amendments is to incorporate into existing rule changes and provisions enacted by Senate Bill 62, the 83rd Texas Legislature, Regular Session. Language has been added to change the age for an exemption from the vaccine requirement from the age of 30 to 22 and above. A definition was added for "public junior college." A provision was added that allows entering students attending public junior colleges to submit a form through a secure, Internet-based process developed and implemented by the Department of State Health Services to claim an exemption from the bacterial meningitis vaccine requirement for reasons of conscience. Language has been added that allows public junior colleges to require an entering student to use the Internet-based process as the exclusive method to apply for an exemption from the vaccine requirement for reasons of conscience.

The amendments are adopted on an emergency basis under the Texas Education Code, Chapter 51, §51.9192(e), which provides the Coordinating Board with the authority to adopt rules to administer the section.

§21.611. Authority.
Texas Education Code, §51.9192, Subchapter Z, establishes the requirement for bacterial meningitis vaccination for certain students and identifies exceptions to that requirement. This subchapter applies only to entering students enrolling in public, private or independent institutions of higher education on or after January 1, 2014 [2012].

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 §21.614(a)(2) - (5) of this title (relating to Exceptions) will be treated as a new student, should the exception no longer apply.
   (B) Public Junior College--Any junior college certified by the Texas Higher Education Coordinating Board in accordance with Texas Education Code §61.063.
   (C) 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. - (6) (No change.)

(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 22 [30] years of age or older by the first day of the start of the semester; or
   (2) - (5) (No change.)
(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 for students attending a public university, health-related institution, or private or independent institution of higher education. The form must be submitted to the designated department or unit no later than the 90th day after the date the affidavit is notarized; or

(3) evidence of submitting a conscientious objection form through a secure, Internet-based process developed and implemented by the Texas Department of State Health Services. The Internet form may be used by entering students attending a public junior college. Public junior colleges may use the Internet-based process as the exclusive method to apply for an exemption from the vaccination requirement for reasons of conscience.

(c) The exception noted in subsection (b)(2) and (3) 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.

This agency hereby certifies that the emergency adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 11, 2013.

TRD-201303913
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Effective date: October 1, 2013
Expiration date: January 28, 2014
For further information, please call: (512) 427-6114