**Colorado Vaccine Exemption Law**

Colorado Statute 25-4-903 regarding exemptions from ‘immunization’ states that:

(2) It is the responsibility of the parent or legal guardian to have his or her child immunized unless the child is exempted pursuant to this section. A student shall be exempted from receiving the required immunizations in the following manner:

(a) By submitting to the student's school certification from a licensed physician, physician assistant authorized under section 12-36-106 (5), C.R.S., or advanced practice nurse that the physical condition of the student is such that one or more specified immunizations would endanger his or life or health or is medically contraindicated due to other medical conditions; or

(b) By submitting to the student's school a statement of exemption signed by one parent or guardian or the emancipated student or student eighteen years of age or older that the parent, guardian, or student is an adherent to a religious belief whose teachings are opposed to immunizations or that the parent or guardian or the emancipated student or student eighteen years of age or older has a personal belief that is opposed to immunizations.

Obtaining a vaccine exemption in Colorado is not an application process to be accepted or denied by a state agency or a school district.  The law states: “A student *shall* be exempted…” It does not say “may be exempted if a state agency deems her worthy”, “can be exempted if they use the official form”, or “might be exempted if a school nurse chooses to honor it”.  It says SHALL BE EXEMPTED. There is no decision to be made. The law is clear. Vaccine exemptions are legal rights to be exercised, not state blessings to be bestowed.

There are no references in Colorado vaccine law to the compulsory use of an official form of any kind. There has never been an official form legislatively approved for this in Colorado. In states that do have an official form, their statutes reference the form very specifically by form name or number and how it is to be submitted to the health department. Colorado does not reference the form in our statute because our statute has not been changed to demand the use of a form. Our transaction is still between the parent and the school. The word “certification” does not equal “official form”. Please notice that the law specifies the required certification is to be *given from a health professional* and is to be submitted *directly to the student’s school*. The certification described is not one of state approval. It is the written acknowledgement by a specified health professional that one or more vaccines would be harmful to a student. Furthermore, according to the State Auditor’s Office, The Colorado Department of Health and Environment (CDPHE) has no authority to enforce the use of any type of exemption form. In January of 2016, a [State Auditor’s report](https://leg.colorado.gov/sites/default/files/documents/audits/1417p_immunization_program-use_of_tobacco_settlement_funds_performance_audit_january_2016_department_of_public_health_and_environment_11.pdf) on the CDPHE not only found gross conflicts of interest in the agency but also clearly declared that:

“the department lacks authority to enforce compliance with school entry immunization requirements”.

Any CDPHE arguments based upon agency derived rules demanding the use of a particular exemption form for Personal Belief, Religious, OR Medical Exemptions are in no way germane to this conversation. Statute always takes precedent over agency rules. Colorado State Law 24-4-103 8a states that:

"Any rule or amendment to an existing rule issued by any agency … which conflicts with a statute shall be void."

CDPHE can make rules, but the purpose of those rules is to clarify statute not change it. Agency rules cannot and do not supersede the law. Rules may be promulgated, royal decrees may be proclaimed, and lobbyists may be pandered to, but the law remains clear. And the law states “A student SHALL be exempted”.

In early 2016, CDPHE sponsored the introduction of House Bill 16-1164. The intention of the bill was to provide CDPHE with the funding and the authority to enforce the use of their proposed new exemption forms. The bill died. It failed to become law. However, that did not stop CDPHE from harassing and coercing parents to use their new form. Through-out most of the 2016/2017 school year, parents in Colorado had to actively defend their legal rights to medical and personal belief vaccine exemptions. Finally, in a letter made public on April 12, 2017, the CDE and the CDPHE admitted that the exempting parents were correct and all that is required for a personal belief exemption is a signed ‘statement of exemption’. For reasons that defy logic or legal plausibility, however, CPDHE still tries to demand that parents use an ‘official form’ for Medical Exemptions. Please understand; Medical Exemptions are provided for in part 2a of CRS 25-4-903, Personal Belief and Religious exemptions are provided for in part 2b. It is the same law. How can one section of a given law be valid while the previous section is not? The April 12 letter is a clear acknowledgement that CDPHE understands the meaning and intent of CRS 25-4-903. Yet, they continue to violate the law by pretending that the mandatory use of their forms is ordained by some sort of extra-legal agency held authority.

In September, Douglas County School District (DCSD) attempted to deny a child her legal right to a Medical Exemption. The child’s parents submitted the exemption, per statute, as a letter from a health care professional but DCSD tried to insist upon the use of the CDPHE form. The parents refused to acquiesce to demands that are not supported by statute. CCVC contacted the District, clearly delineating the law and explaining the parents’ rights under that law. While DCSD or their attorney have not yet conceded or apologized to the parents in writing, the child is presently attending a Douglas County school and the family has experienced no further harassment.

Another aspect of Colorado Vaccine Exemption Law that is routinely and systemically violated is the imperative to inform citizens of their Exemption Rights as provided by those laws. Section 4 of CRS 25-4-903 goes on to explicitly state:

"All information distributed to parents by school districts regarding immunization shall inform them of their rights under subsection (2) of this section."

Furthermore, the Immunization Registry Act of 2007, CRS 25-4-2403, states that any notice that provides information on vaccinations shall also inform the recipient of:

“… the option to refuse an immunization on the grounds of medical, religious, or personal belief considerations”.

The law is clear and unequivocal. True and accurate information on exemption rights must be offered whenever notices about vaccines are provided.

In July of 2017, members of the Colorado Health Choice Alliance (CHCA) noticed that many school district websites were in direct violation of these laws. This was immediately brought to the attention of the Colorado Department of Education (CDE). The CDE replied on August 7 that, “Without a dedicated staff member or resources, CDE does not have the ability to conduct this level of inquiry regarding district practice”. So CHCA volunteers took it upon themselves to examine the websites of 188 Colorado school districts and found that 70 of them, while explaining the so called vaccine ‘requirements’, had no reference at all to exemption rights. This was brought to the attention of Kathleen Patrick, an Assistant Director of the Colorado Department of Education. She was asked who or what state agency has enforcement authority over school districts’ websites. She explained that, “The Department does not have specific enforcement authority to direct the content of school or district websites on this topic.” She went on to kindly offer a suggestion. “You may find it helpful to connect directly with school districts that may have not updated public communications on this topic.” And that is exactly what CCVC did.  
  
Throughout the rest of the summer, two CHCA board members spent more than 150 total volunteer hours contacting every out of compliance school district in the state. Information was provided to them about Colorado vaccine exemption law, the ways in which their district was violating said laws, and what steps that particular district needed to take to bring their website into compliance. Many of the districts expressed gratitude for the information and updated their websites immediately. Others required more, shall we say, coaxing. While neither of the board members involved are lawyers, the letters were written in such a way as to express clear knowledge of and expertise in the law. While a couple of districts were taken aback by the severity and seriousness of the communications, not one of them questioned the legal arguments presented. A few districts, rather than posting the truth about vaccine exemptions, opted to merely remove all vaccine related information from their websites. After more than two months of citizens’ diligent, persistent work, all of Colorado’s school districts’ websites were in compliance with CRS 25-4-903.