

# Immunizations for Children and Adolescents: NC Law

Jill D. Moore, MPH, JD  
August 2024



# Introductions

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**Jill Moore** (MPH, JD) is Associate Professor of Public Law and Government at the UNC School of Government. She teaches, consults with, and researches and writes for North Carolina public health officials and agencies and other stakeholders on issues related to public health law. Her current areas of work include communicable disease law, reproductive health law, child and adolescent immunization law, selected issues in medical confidentiality and HIPAA, and public health remedies. She can be reached at [moore@sog.unc.edu](mailto:moore@sog.unc.edu).



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As the largest university-based local government training, advisory, and research organization in the U.S., the School of Government offers up to 200 courses, webinars, and specialized conferences for more than 12,000 public officials each year. Faculty respond to thousands of phone calls and e-mail messages each year on routine and urgent requests for technical assistance and also engage in long-term advising projects. More information about the School can be found at [www.sog.unc.edu](http://www.sog.unc.edu).



# Road map

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Brief history of immunization laws and vaccine-preventable diseases in the US

North Carolina's child and adolescent immunization laws

- Requirements & exemptions
- Immunizations and school entry
- Consent for immunizations (and refusal)
- Access to immunization information

How is immunization law changing?



*Image source: [supremecourt.gov](https://www.supremecourt.gov)*

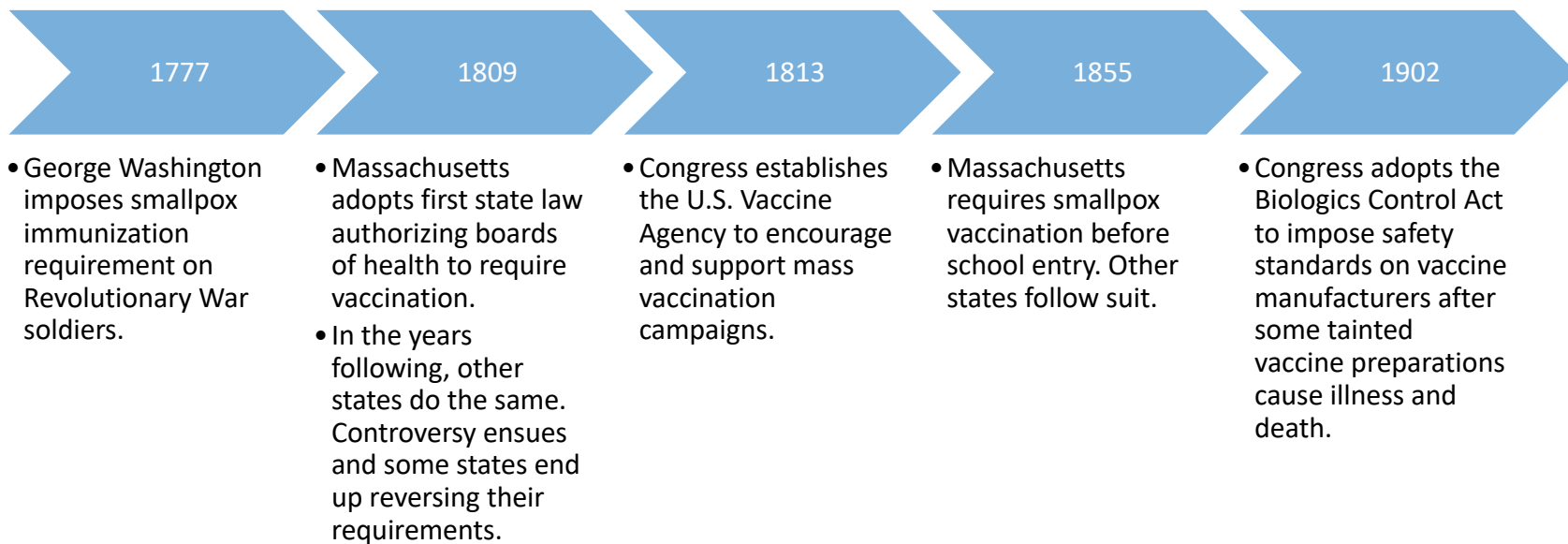
# Laws & VPDs in the US through the 20<sup>th</sup> century

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# Some key dates in the history of immunization and the law

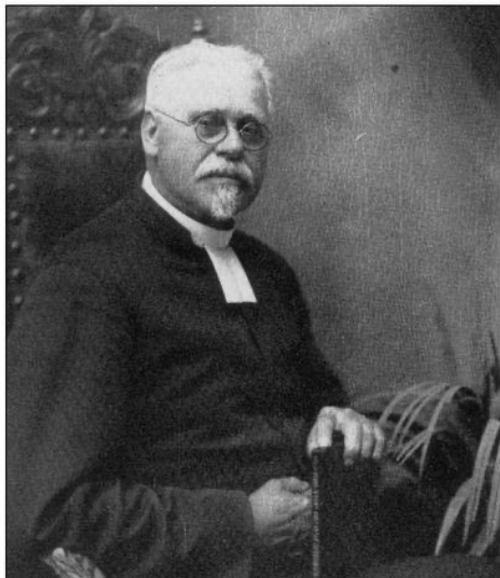
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# 1905: Vaccination requirements held constitutional

## *Jacobson v. Massachusetts*, 197 U.S. 11 (1905)

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*Rev. Henning Jacobson*

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### Facts

The residents of Cambridge, MA were required by law to be vaccinated against smallpox. Jacobson refused. He was criminally charged and convicted and fined \$5.00.

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### Legal Issue

Did the vaccination requirement violate Jacobson's rights under the US Constitution?

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### Holding

Vaccination requirement was not an unconstitutional impingement on Jacobson's liberty, because it was a reasonable exercise of the police power – the power of government to protect public health and safety.

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Image source: Mississippi Dept. of Archives & History

## 1922: Immunization requirements for school entry held constitutional

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In 1922, the U.S. Supreme Court held that vaccination may be required as a condition of school attendance.

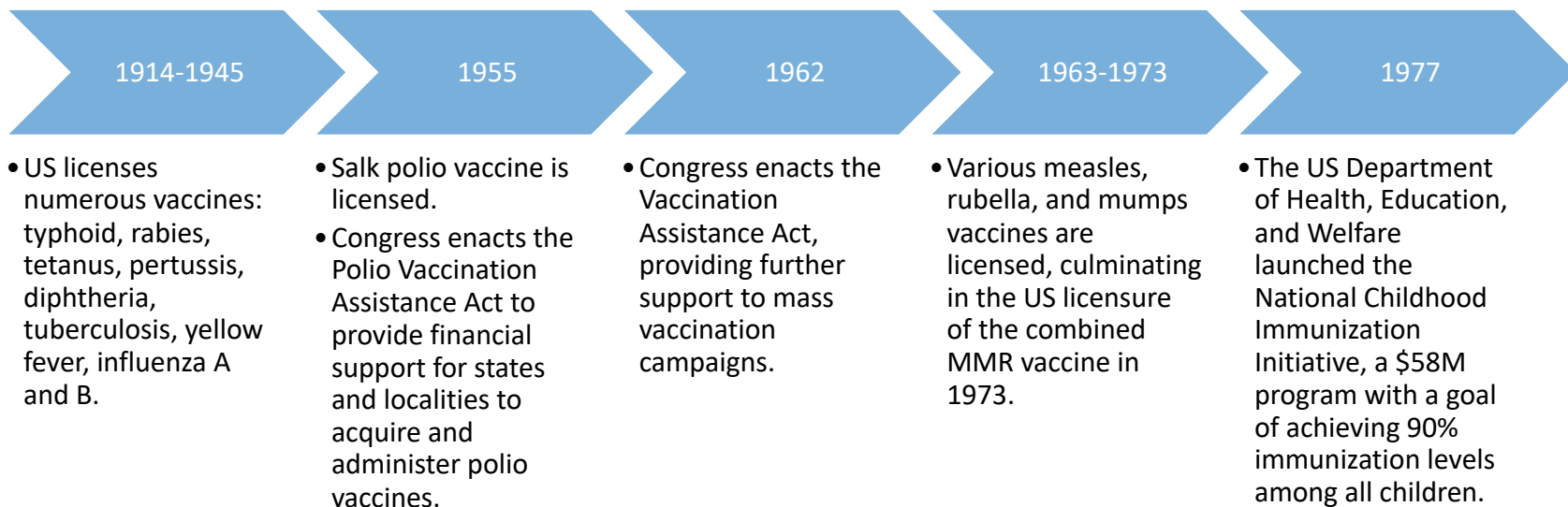
- *Zucht v. King*, 260 U.S. 174 (1922)

See also *Prince v. Massachusetts*, 321 U.S. 158 (1944) (concerning parental & religious rights in the context of child labor laws)

- Parents have constitutionally protected right to make decisions for their children and they also have constitutionally protected religious rights.
- However, “the right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death.”

# More key dates in the history of vaccination and the law

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*Image source: nclg.gov*

## Meanwhile, state legislatures were getting into the act

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By 1980, every state had statutes requiring children to be immunized against certain diseases in order to attend school.

All states provide exemptions for medical contraindications and most provide exemptions for sincere religious beliefs.

Some states provide a “philosophical” or “personal belief” exemption for beliefs that do not have to be religious in nature.

# Ten great public health achievements of the 20<sup>th</sup> century

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Source: CDC, *Ten Great Public Health Achievements, 1900-1999* (MMWR 48(12); 241-243 (April 02, 1999)).

## Comparison of 20<sup>th</sup> Century Annual Morbidity and Current Morbidity: Vaccine-Preventable Diseases

Disease	20th Century Annual Morbidity <sup>†</sup>	2023 Reported Cases <sup>††</sup>	Percent Decrease
Smallpox	29,005	0	100%
Diphtheria	21,053	2	> 99%
Measles	530,217	47	> 99%
Mumps	162,344	429	> 99%
Pertussis	200,752	5,611	97%
Polio (paralytic)	16,316	0	100%
Rubella	47,745	3	> 99%
Congenital Rubella Syndrome	152	0	100%
Tetanus	580	15	97%
<i>Haemophilus influenzae</i>	20,000	27*	> 99%

<sup>†</sup> JAMA. 2007;298(18):2155-2163

<sup>††</sup> CDC. National Notifiable Diseases Surveillance System, Weekly Tables of Infectious Disease Data. Atlanta, GA. CDC Division of Health Informatics and Surveillance. Available at: [Weekly statistics from the National Notifiable Diseases Surveillance System \(NNDSS\)](https://www.cdc.gov/nndss/). (cdc.gov). Data submitted through Dec 31, 2023; accessed on Jan 24, 2024; diphtheria and polio case counts reported by CDC Program.

\* *Haemophilus influenzae* type b (Hib) < 5 years of age. An additional 12 cases of Hib are estimated to have occurred among the 257 notifications of *Haemophilus influenzae* (< 5 years of age) with unknown serotype.

National Center for Immunization & Respiratory Diseases

Historical Comparisons of Vaccine-Preventable Disease Morbidity in the U.S.



2/14/2024



# NC law: Childhood & adolescent immunizations

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*Image source: UNC School of Government*

# North Carolina immunization requirements (G.S. 130A-152)

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## **General rule**

Every child present in North Carolina shall be immunized against diphtheria, tetanus, whooping cough (pertussis), polio, measles, rubella, and any other disease for which the NC Commission for Public Health determines vaccination is in the interest of the public health (except COVID-19).

Every parent, guardian, person in loco parentis, or legal custodian of a child is responsible for ensuring the child is immunized.

## **Exemptions**

Medical contraindication (G.S. 130A-156)

Bona fide religious objection (G.S. 130A-157)

# Which immunizations are required in NC?

**SECTION .0400 - IMMUNIZATION**

**10A NCAC 41A.0401 DOSAGE AND AGE REQUIREMENTS FOR IMMUNIZATION**

(a) Every individual in North Carolina required to be immunized pursuant to G.S. 130A-152 through 130A-157 shall be immunized against the following diseases and have documentation of age-appropriate vaccination in accordance with the Advisory Committee on Immunization Practices (ACIP).

- (1) Diphtheria, tetanus, and pertussis (whooping cough) - five doses: three doses by age seven months; and 2 booster doses, the first by age 19 months and the second on or after the fourth birthday and before entering school for the first time. However:
  - (A) Individuals who receive the first booster dose of diphtheria/tetanus/pertussis vaccine on or after the fourth birthday are not required to have a second booster.
  - (B) Individuals entering college or university for the first time on or after July 1, 2008 must have had three doses of tetanus/diphtheria toxoid; one of which must be tetanus/diphtheria/pertussis.
  - (C) A booster dose of tetanus/diphtheria/pertussis vaccine is required for individuals who have not previously received it and are entering the seventh grade or by 12 years of age, whichever comes first.
- (2) Poliomyelitis vaccine - four doses: two doses of trivalent type by age five months; a third dose trivalent type before age 19 months; and a booster dose of trivalent type on or after his or her fourth birthday and before entering school for the first time. However:
  - (A) An individual attending school who has attained his or her 18th birthday is not required to receive a polio vaccine.
  - (B) The requirements for the booster dose on or after the fourth birthday do not apply to individuals who began school before July 1, 2015.
  - (C) Individuals who receive the third dose of poliomyelitis vaccine on or after the fourth birthday are not required to receive a fourth dose if the third dose is given at least six months after the second dose.
- (3) Measles (rubella) vaccine - two doses of live, attenuated vaccine administered at least 28 days apart: the first dose on or after age 12 months and before age 16 months; and a second dose before entering school for the first time. However:
  - (A) An individual who has been documented by serological testing to have a protective antibody titer against measles is not required to receive measles vaccine.
  - (B) An individual who has been diagnosed before January 1, 1994, by a physician (or designee such as a nurse practitioner or physician's assistant) as having measles (rubella) disease is not required to receive measles vaccine.
  - (C) An individual born before 1957 is not required to receive measles vaccine except in measles outbreak situations.
  - (D) The requirement for a second dose of measles vaccine does not apply to individuals who enter school or in college or university for the first time before July 1, 1994.
- (4) Rubella vaccine - one dose of live, attenuated vaccine on or after age 12 months and before age 16 months. However:
  - (A) An individual who has laboratory confirmation of rubella disease or who has been documented by serological testing to have a protective antibody titer against rubella is not required to receive rubella vaccine.
  - (B) An individual who has attained his or her fiftieth birthday is not required to receive rubella vaccine except in outbreak situations.
  - (C) An individual who entered a college or university after his or her thirtieth birthday and before February 1, 1989 is not required to meet the requirement for rubella vaccine except in outbreak situations.
- (5) Mumps vaccine - two doses: the first dose of live, attenuated vaccine administered on or after age 12 months and before age 16 months; and a second dose before entering school, college or university for the first time. However:
  - (A) An individual who has laboratory confirmation of disease, or has been documented by serological testing to have a protective antibody titer against mumps is not required to receive the mumps vaccine.
  - (B) An individual born before 1957 is not required to receive the mumps vaccine.

NC's Required Schedule: 10A N.C.A.C. 41A .0401

**Table 1 Recommended Child and Adolescent Immunization Schedule for Ages 18 Years or Younger, United States, 2024**

These recommendations must be read with the notes that follow. For those who fall behind or start late, provide catch-up vaccination at the earliest opportunity as indicated by the green bars. To determine minimum intervals between doses, see the catch-up schedule (Table 2).

Vaccine and other immunizing agents	Birth	1 mo	2 mos	4 mos	6 mos	9 mos	12 mos	15 mos	18 mos	19-23 mos	2-3 yrs	4-6 yrs	7-10 yrs	11-12 yrs	13-15 yrs	16 yrs	17-18 yrs
Respiratory syncytial virus (RSV-mAb (Nirsevimab))	1 dose (depending on maternal RSV vaccination status, See Notes)																
Hepatitis B (HepB)	1 <sup>st</sup> dose	← 2 <sup>nd</sup> dose →	← 3 <sup>rd</sup> dose →														
Rubella (RV): RV1 (2-dose series, RV13 1-dose series)	See Notes																
Diphtheria, tetanus, acellular pertussis (DTaP <7 yrs)	1 <sup>st</sup> dose	2 <sup>nd</sup> dose	3 <sup>rd</sup> dose	← 4 <sup>th</sup> dose →													
Haemophilus influenzae type b (Hib)	1 <sup>st</sup> dose	2 <sup>nd</sup> dose	← 3 <sup>rd</sup> or 4 <sup>th</sup> dose →														
Pneumococcal conjugate (PCV15, PCV20)	1 <sup>st</sup> dose	2 <sup>nd</sup> dose	3 <sup>rd</sup> dose	← 4 <sup>th</sup> dose →													
Inactivated poliovirus (IPV <18 yrs)	1 <sup>st</sup> dose	2 <sup>nd</sup> dose	← 3 <sup>rd</sup> dose →														
COVID-19 (1vCOV-mRNA, 1vCOV-aP5)	1 or more doses of updated (2023-2024 Formula) vaccine (See Notes)																
Influenza (IN4)	Annual vaccination 1 or 2 doses																
Influenza (LAIV4)	Annual vaccination 1 or 2 doses																
Measles, mumps, rubella (MMR)	See Notes																
Varicella (VAR)	← 1 <sup>st</sup> dose →																
Hepatitis A (HepA)	See Notes																
Tetanus, diphtheria, acellular pertussis (Tdap >7 yrs)	← 1 <sup>st</sup> dose →																
Human papillomavirus (HPV)	See Notes																
Meningococcal (MenACWY-CRM ≥2 mos, MenACWY-TT ≥2 years)	See Notes																
Meningococcal B (MenB-4C, MenB #Hbp)	See Notes																
Respiratory syncytial virus vaccine (RSV (Abrysvo))	Seasonal administration during pregnancy, See Notes																
Dengue (DEN4CYD; 9-16 yrs)	Seropositive in endemic/dengue areas (See Notes)																
Mpox	See Notes																

Legend:  
 Yellow: Range of recommended ages for all children  
 Green: Range of recommended ages for catch-up vaccination  
 Purple: Range of recommended ages for certain high-risk groups  
 Yellow with star: Recommended vaccination can begin in this age group  
 Blue: Recommended vaccination based on shared clinical decision-making  
 Grey: No recommendation/not applicable

CDC's Recommended Schedule

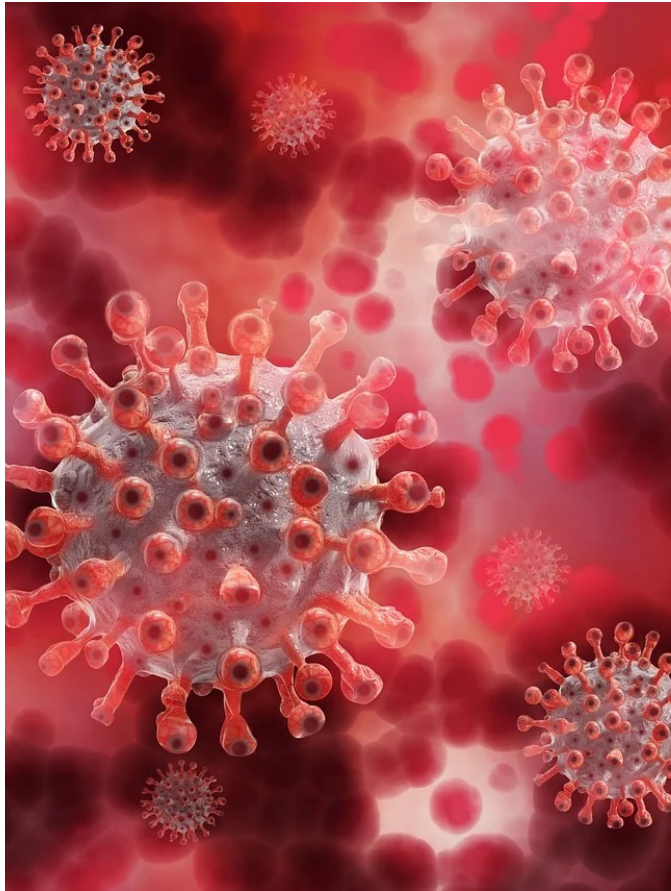


Image source: pixabay.com

## Prohibition on requiring COVID-19 vaccination (G.S. 130A-152(f), enacted by S.L. 2023-134, sec. 5.8, effective 1/1/24)

The following NC entities may not require students to provide proof of COVID-19 vaccination or to obtain COVID-19 vaccination:

- Commission for Public Health
- Public school units
- Community colleges
- Constituent institutions of the University of North Carolina
- Any private colleges or universities that receive state funds

There is an exception if COVID-19 vaccination is required for the student to participate in a program of study or fulfill educational requirements that require working, volunteering, or training in facilities certified by CMS.

***The prohibition applies only to COVID-19 vaccines; no other vaccines are affected.***

North Carolina Department of Health and Human Services  
Women's and Children's Health Section • Immunization Branch

**NC MEDICAL EXEMPTION STATEMENT FORM DHHS 3987**

**Purpose:** To provide physicians licensed to practice medicine in North Carolina, a mechanism to certify, pursuant to [G.S. 130A-156](#), a medical exemption to a required immunization(s) due to a contraindication adopted by the NC Commission for Public Health. As set out in [10A NCAC 41A .0404](#), the NC Commission for Public Health has adopted the contraindications that are recommended by the Advisory Committee on Immunization Practices (ACIP). These contraindications are listed on this form. This form does not need to be submitted for approval to the State Health Director and may be accepted by agencies that require proof of immunizations. For medical exemptions NOT listed in the table below, submit the **Physician's Request for Medical Exemption Form (DHHS 3995)** to the State Health Director for approval, available at <https://www.immunize.org/school/nc-exemptions.html>.

**Instructions:**

1. Complete and sign the form.
2. Attach a copy of the most current immunization record.
3. Retain a copy for the patient's medical record.
4. Return the original to the person requesting this form.

Name of Patient \_\_\_\_\_ DOB \_\_\_\_\_

Name of Parent/Guardian \_\_\_\_\_ Primary Phone ( ) \_\_\_\_\_

Home Address (Patient/Parent) \_\_\_\_\_ County \_\_\_\_\_

Name of Child Care/School/College/University \_\_\_\_\_

A **contraindication** is a condition in a recipient that increases the risk for a serious adverse reaction. A vaccine should not be administered when a contraindication is present. Medical contraindications for immunizations are described in the most recent recommendations by the ACIP, available at <https://www.cdc.gov/vaccines/imz/ncac/ncac.html#contraindications>.

Vaccine	Check all contraindications that apply to this patient below:
<input type="checkbox"/> Diphtheria, tetanus, pertussis (DTaP) <input type="checkbox"/> Tetanus, diphtheria, pertussis (Tdap) <input type="checkbox"/> Tetanus, diphtheria (DT, Td)	<input type="checkbox"/> Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component <input type="checkbox"/> For pertussis-containing vaccines: encephalopathy (e.g., coma, decreased level of consciousness, prolonged seizures) not attributable to another identifiable cause within 7 days of administration of a previous dose of DTaP or Tdap (for DTaP); or of previous dose of DTaP, Tdap, or Tdap (for Tdap)
<input type="checkbox"/> Measles, mumps, rubella (MMR)	<input type="checkbox"/> Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component <input type="checkbox"/> Severe immunodeficiency (e.g., hematologic and solid tumors, chemotherapy, congenital immunodeficiency or long-term immunosuppressive therapy), or persons with human immunodeficiency virus (HIV) infection who are severely immunocompromised <input type="checkbox"/> Family history of congenital or hereditary immunodeficiency in first-degree relatives (e.g., parents and siblings), unless the immune competence of the potential vaccine recipient has been substantiated clinically or verified by a laboratory test <input type="checkbox"/> Pregnancy
<input type="checkbox"/> Varicella (Var)	<input type="checkbox"/> Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component. <input type="checkbox"/> Severe immunodeficiency (e.g., hematologic and solid tumors, chemotherapy, congenital immunodeficiency or long-term immunosuppressive therapy), or persons with HIV infection who are severely immunocompromised <input type="checkbox"/> Family history of congenital or hereditary immunodeficiency in first degree relatives (e.g., parents and siblings), unless the immune competence of the potential vaccine recipient has been substantiated clinically or verified by a laboratory test <input type="checkbox"/> Pregnancy

DHHS 3987 (Revised 06/20)  
Immunization (Revise 8/20)

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N.C. DHHS Form 3987

# NC Medical Exemption

## (G.S. 130A-156; 10A NCAC 41A .0404)

A person with a medical contraindication to a required immunization is not required to receive that immunization for as long as the contraindication persists.

A licensed physician must certify that the person has a medical contraindication. The certification must state the basis for the exemption, the specific vaccine or vaccines the person should not receive, and the length of time the exemption will apply.

Normally the medical contraindication must be one that is recognized by the Advisory Committee on Immunization Practices (ACIP).

- DHHS Form 3987

However, there is also a procedure and form for a licensed physician to request a medical exemption for a contraindication not recognized by ACIP. The request must be approved by the State Health Director.

- DHHS Form 3995



# Discussion scenario

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I believe my child had a bad reaction to a vaccine. I don't want her to have any more shots.

A 15-month-old child received her first MMR vaccine.

24 hours later, the child developed a fever and a bright red throat. The child's pediatrician diagnosed strep throat and prescribed an antibiotic.

A few hours later, the child developed a rash and began crying inconsolably. The child's mother took her to the emergency room and was advised that the child's condition was caused by an allergy to the antibiotic. A different antibiotic was prescribed and the child improved.

The child's mother remained worried about the timing of the child's symptoms and the fact that they developed shortly after the MMR shot. After doing some research online, the mother decided she did not want the child to receive future vaccinations. The mother asked a physician to certify a medical exemption for her child.

Does this child qualify for a medical exemption under NC law?

<input type="checkbox"/> <b>Measles, mumps, rubella (MMR)</b>	<ul style="list-style-type: none"><li><input type="checkbox"/> Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a vaccine component</li><li><input type="checkbox"/> Severe immunodeficiency (e.g., hematologic and solid tumors, chemotherapy, congenital immunodeficiency or long-term immunosuppressive therapy), or persons with human immunodeficiency virus [HIV] infection who are severely immunocompromised</li><li><input type="checkbox"/> Family history of congenital or hereditary immunodeficiency in first-degree relatives (e.g., parents and siblings), unless the immune competence of the potential vaccine recipient has been substantiated clinically or verified by a laboratory test</li><li><input type="checkbox"/> Pregnancy</li></ul>
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## MMR contraindications on NC DHHS Form 3987



## NC Religious Exemption (G.S. 130A-157; 10A N.C.A.C. 41A. 0403)

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If the bona fide religious beliefs of an adult or of the parent, guardian, or person in loco parentis of a child are contrary to the immunization requirements, the adult or child is exempt from the requirements.

There is no exception for a personal belief or philosophy that is not founded on a religious belief.

A person who is exempt under this provision may attend school, day care, or a college/university upon submission of a written statement of the bona fide religious belief. There is no DHHS form.

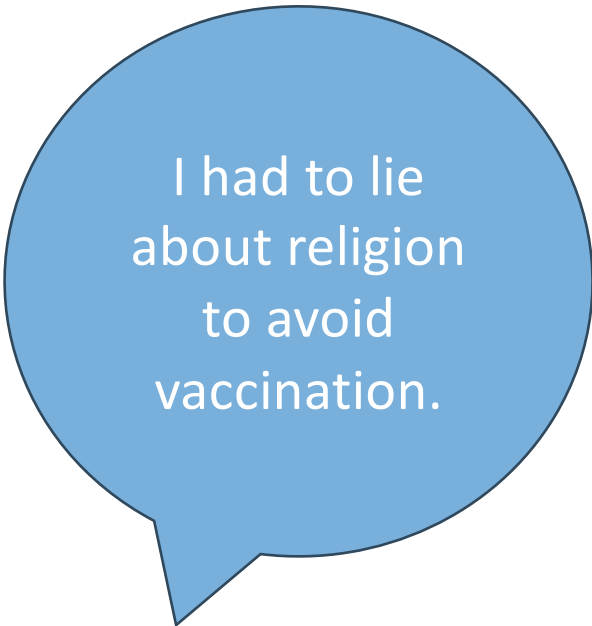
# Discussion scenario

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A mother who claimed a religious objection to vaccinations for her child was profiled in a New York Times story.

According to the story, the mother admitted that her objections were based on concerns about vaccine safety, not religion. She was quoted as saying, “I’m an honest person but the state forced me to lie.”

Is this mother’s religious objection to vaccines “bona fide,” as North Carolina law requires?



I had to lie  
about religion  
to avoid  
vaccination.





## Immunizations and school or day care (G.S. 130A-155)

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If a child has not received the required immunizations and is not eligible for a medical or religious exemption, the child may be excluded from school or day care. Parent, guardian or responsible person must present certificate of immunization or documentation of exemption.

- No certificate (or incomplete) → notice of deficiency
- 30 days provided to obtain immunizations (or begin series)
- If no action after 30 days, school or day care principal or operator shall not permit the child to attend school

# Quarantine during an outbreak

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A person who has not been immunized against a vaccine-preventable disease may be subject to a quarantine order in an outbreak of that VPD, ***even if the person has an exemption.***

“Quarantine authority” includes “the authority to issue an order to limit the freedom of movement or action of persons who have not received immunizations against a communicable disease when the State Health Director or a local health director determines that the immunizations are required to control an outbreak of that disease.” G.S. 130A-2(7a).

In 2018, a NC Superior Court upheld quarantine orders that prevented unimmunized children with valid exemptions from attending school during an outbreak of varicella at that school.



*Image source: rawpixel.com*



*Image source: pexels.com*

# Consent for immunizations for children & adolescents

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*Image source: PowerPoint stock images*

# Who may give consent for a minor child's immunization?

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## **General rule: Parent, guardian, or PILP consents**

A parent, guardian, or person acting in loco parentis (PILP) may consent to the immunization of a minor child (under age 18)

- G.S. 130A-153(d); 90-21.20A, 90-21.20B

## **Other circumstances**

Another adult presents a child for immunization on the parent's behalf

- G.S. 130A-153(d)

DSS director/designee consents for a child in DSS custody

- G.S. 7B-505

Adolescent is able to give effective consent and the immunization is for a venereal disease or a communicable disease that is reportable under NC law

- G.S. 90-21.5

# When may a HCP immunize a child who is presented by an adult who is not the parent/guardian/PILP?

A physician or local health department may immunize a minor child who is presented for immunization by an adult (age 18+) who has been authorized by the child's parent/guardian/PILP to obtain the immunization.

- G.S. 130A-153(d).

The adult must **sign a statement** that s/he has been authorized by the parent/guardian/PILP to obtain the immunization.

Consent in this situation is still considered to be from the parent/guardian/PILP; the other adult is simply helping obtain the immunization(s).



Image source: pexels.com

North Carolina Department of Health and Human Services | Division of Social Services  
General Authorization for Treatment and Medication

Section A – Identifying Information	
Child's Name:	Date of Birth:
Medical Home Provider:	Telephone Number:
Other Medical, Dental, or Mental Health Provider or Specialist Prescribing or Administering Treatment:	Telephone Number:

Section B – Care, Treatment, and Parental Consent (N.C.G.S. § 7B-505.1)
When a child is in the custody of the county child welfare agency, the county director may arrange for, provide, or consent to any of the following without obtaining parental consent:
<ul style="list-style-type: none"> <li>Routine medical or dental care or treatment (including immunizations in most cases);</li> <li>Emergency medical, surgical, psychiatric, psychological, or mental health care or treatment; and,</li> <li>Testing and evaluation in exigent circumstances</li> </ul>
I hereby authorize _____ county child welfare agency to consent to the following treatment of the child identified above (include description):
<input type="checkbox"/> Prescriptions for psychotropic medication(s): _____
<input type="checkbox"/> Participation in a clinical trial: _____
<input type="checkbox"/> Child Medical Evaluation not otherwise authorized (DSS-5143 Consent/Authorization for Child Medical/Child/Family Evaluation must also be completed): _____
<input type="checkbox"/> Comprehensive clinical assessment, or other mental health evaluation(s): _____
<input type="checkbox"/> Surgical, medical, or dental procedure or test that requires informed consent: _____
<input type="checkbox"/> Psychiatric, psychological, or mental health care or treatment that requires informed consent: _____
<input type="checkbox"/> Other non-routine or non-emergency treatment or procedure: _____

DSS-1812 (Created 02/2016)  
Child Welfare Services

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*N.C. DSS Form 1812*

## Who may consent to immunization for a child in DSS custody?

DSS is permitted to consent to “routine” medical care for a child in its custody.

However, if the parent of a child in DSS custody is known to have a bona fide religious objection to the standard schedule of immunizations, DSS may not treat the child’s immunizations as routine but must seek either:

- The parent’s consent for immunizations, or
- A court order authorizing DSS to consent to immunizations.

G.S. 7B-505.1





Image source: pexels.com

# When may a minor consent to their own immunization?

## NC Minor's Consent Law (G.S. 90-21.5)

With some exceptions, an unemancipated minor with decisional capacity may consent to medical health services for the prevention, diagnosis, or treatment of:

- Venereal diseases and reportable communicable diseases,
- Pregnancy,
- Abuse of controlled substances or alcohol, and
- Emotional disturbance.

However, a minor may not consent to administration of a vaccine that is under an emergency use authorization (EUA). The written consent of the minor's parent or guardian is required for a vaccine under an EUA.

If minor has decisional capacity, and



Vaccination is for a venereal disease or a NC reportable disease, and



Vaccine is not under an EUA,



Minor may consent.



*Image source: PowerPoint stock images*

# Let's discuss

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## How do you deal with immunization refusal?

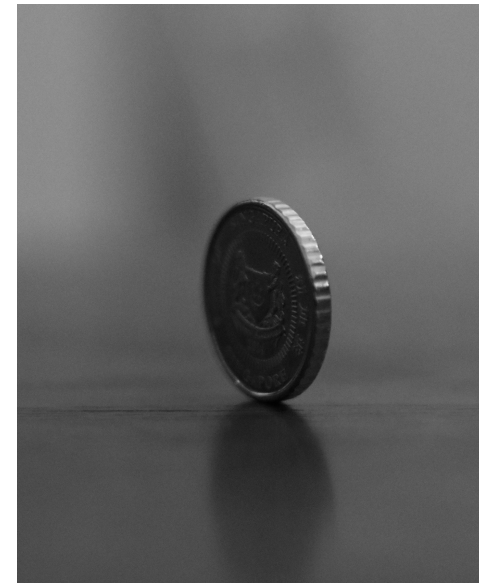
# The flip side of informed consent is informed refusal

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NC does not require a specific informed refusal process, but the general principles of informed consent apply.

Information that may be included as part of an informed refusal process:

- Purpose of immunization
- Risks and benefits of receiving immunization
- Risks and benefits of forgoing immunization
- NC legal requirements for immunization
- Can you think of more?



**Refusal to Vaccinate**

Child's Name \_\_\_\_\_ Child's ID# \_\_\_\_\_  
 Parent's/Guardian's Name \_\_\_\_\_

My child's doctor/nurse, \_\_\_\_\_ has advised me that my child (named above) should receive the following vaccine(s):

Recommended	Declined
<input type="checkbox"/> Hepatitis B vaccine	<input type="checkbox"/>
<input type="checkbox"/> Diphtheria, tetanus, acellular pertussis (DTaP or Tdap) vaccine	<input type="checkbox"/>
<input type="checkbox"/> Diphtheria tetanus (DT or Td) vaccine	<input type="checkbox"/>
<input type="checkbox"/> Haemophilus influenzae type b (Hib) vaccine	<input type="checkbox"/>
<input type="checkbox"/> Pneumococcal conjugate or polysaccharide vaccine	<input type="checkbox"/>
<input type="checkbox"/> Inactivated poliovirus (IPV) vaccine	<input type="checkbox"/>
<input type="checkbox"/> Measles-mumps-rubella (MMR) vaccine	<input type="checkbox"/>
<input type="checkbox"/> Varicella (chickenpox) vaccine	<input type="checkbox"/>
<input type="checkbox"/> Influenza (flu) vaccine	<input type="checkbox"/>
<input type="checkbox"/> Meningococcal conjugate or polysaccharide vaccine	<input type="checkbox"/>
<input type="checkbox"/> Hepatitis A vaccine	<input type="checkbox"/>
<input type="checkbox"/> Rotavirus vaccine	<input type="checkbox"/>
<input type="checkbox"/> Human papillomavirus (HPV) vaccine	<input type="checkbox"/>
<input type="checkbox"/> Other _____	<input type="checkbox"/>


I have been provided with and given the opportunity to read each Vaccine Information Statement from the Centers for Disease Control and Prevention explaining the vaccine(s) and the disease(s) it prevents for each of the vaccine(s) checked as recommended and which I have declined, as indicated above. I have had the opportunity to discuss the recommendation and my refusal with my child's doctor or nurse, who has answered all of my questions about the recommended vaccine(s). A list of reasons for vaccinating, possible health consequences of non-vaccination, and possible side effects of each vaccine is available at [www.cdc.gov/vaccines/pubs/vis/default.htm](http://www.cdc.gov/vaccines/pubs/vis/default.htm). I understand the following:

- The purpose of and the need for the recommended vaccine(s).
- The risks and benefits of the recommended vaccine(s).

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Witness: \_\_\_\_\_ Date: \_\_\_\_\_

I have had the opportunity to rediscuss my decision not to vaccinate my child and still decline the recommended immunizations.

Parent's Initials: \_\_\_\_\_ Date: \_\_\_\_\_ Parent's Initials: \_\_\_\_\_ Date: \_\_\_\_\_

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# Should health care providers use AAP's "Refusal to Vaccinate" form?

Voluntary, but both health care provider and parent should understand:

The parent's signature on the form does **not** exempt the child from NC's immunization requirements.

Even if the child qualifies for an exemption under NC law, the AAP form is **not** proper documentation of the exemption.





*Image source: PowerPoint stock images*

## Access to immunization information

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# Who may have access to immunization information without the patient's (or parent's) consent?

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North Carolina has both a statute and a state rule, which address different aspects of immunization information-sharing.

The statute requires health care providers and public health officials to share immunization certificates and other information from their records that concerns immunizations with each other. It also authorizes the Commission for Public Health to adopt rules allowing other persons to have access to immunization information.

The rule requires health care providers and public health officials to share certain immunization information with schools, child care facilities, and public health agencies in other states, upon request. The information that must be shared under the rule is name and address; name of parent/guardian/PILP; date of birth; gender; race and ethnicity; vaccine type, date, and dose number administered; name and address of provider that administered the dose; the existence of a medical or religious exemption (if applicable).

# Who may access immunization information under the statute and rule?

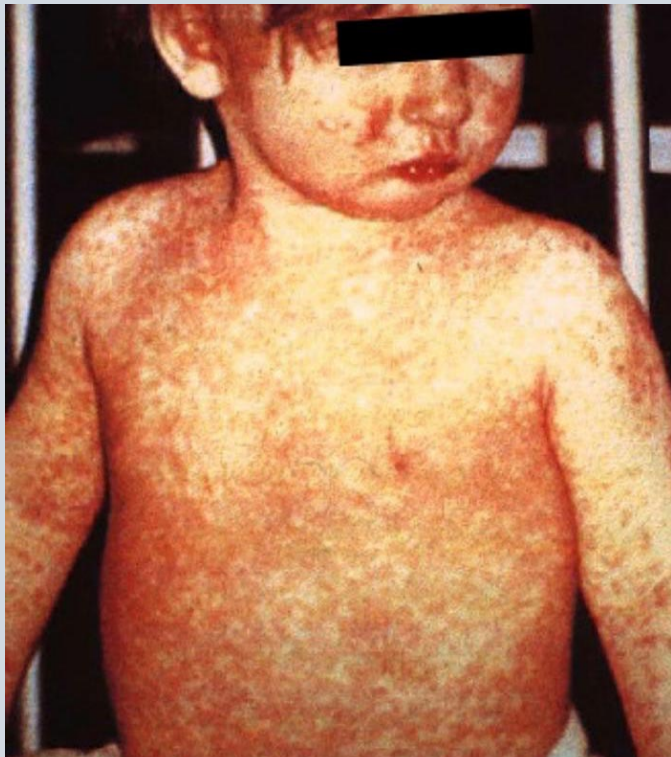
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## Statute G.S. 130A-153(c)

- Immunization certificates and information concerning immunizations **shall** be shared upon request with the following individuals and entities:
  - NC Department of Health & Human Services (NCDHHS)
  - Local health departments
  - An immunizing pharmacist
  - The patient's physician

## Rule 10A NCAC 41A .0406

- Physicians, local health departments, and NCDHHS **shall** upon request share specified immunization information with:
  - K-12 schools (public or private)
  - Licensed or registered childcare facilities
  - Head Start
  - Colleges and universities (public or private)
  - Health maintenance organizations
  - State or local health departments outside NC

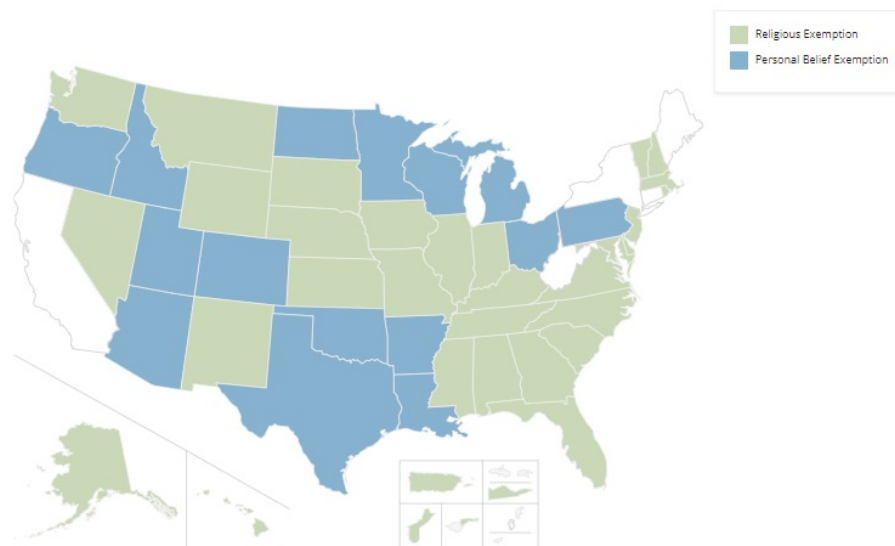


*Image source: cdc.gov*

# What's next for immunization law? Early 21st century changes

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### Non-Medical State Exemptions from School Immunization Requirements



Source: National Conference of State Legislatures (2023)

## The changing state(s) of non-medical exemptions

In 2000, the only two states that did not allow religious or other non-medical exemptions were West Virginia and Mississippi.

Following the measles outbreaks of the 2010s, four states repealed all non-medical exemptions: California, New York, Maine, & Connecticut. Other states narrowed their non-medical exemptions to religious exemptions only (i.e., no non-religious personal belief exemption), or placed other requirements on uses of non-medical exemptions.

In 2023, a court ordered the Mississippi State Department of Health to accept religious exemptions.

At present, 45 states allow some form of non-medical exemption:

- 30 allow a religious belief exemption
- 15 allow a general personal belief exemption



## Different directions potentially emerging from the courts

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In 2020, a New York Court rejected a claim that a measles vaccination requirement violated the 1<sup>st</sup> amendment because it did not allow a religious exemption. *C.F. v. New York City Dep't of Health & Mental Hygiene*, 139 N.Y.S.3d 273 (2020).

In 2021, the US Supreme Court allowed two state-imposed covid-19 vaccination requirements to stand, but 3 justices dissented in each case specifically because no religious exemption was provided. *Does v. Mills*, 595 U.S. \_\_\_\_ (Oct. 29, 2021); *Dr. A v. Hochul*, 595 U.S. \_\_\_\_ (Dec. 13, 2021).

In 2023, a federal court in Mississippi appeared to embrace the dissenting Supreme Court justices' reasoning when it issued a preliminary injunction requiring that state to begin allowing religious exemptions to immunization requirements. *Bosarge v. Edney*, 1:22cv233-HSO-BWR (S.D. Miss. Apr. 18, 2023)

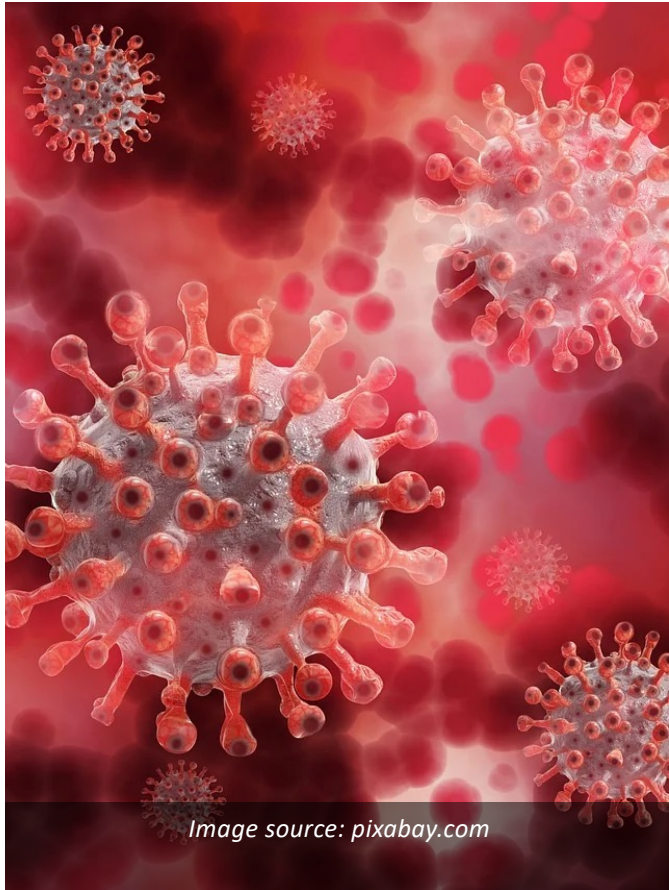


Image source: pixabay.com

# Legislative activity focused on COVID-19 vaccination

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An analysis of state legislation by the Network for Public Health Law identified 60 prohibitions or limitations on COVID-19 vaccination that had been enacted by June 2022.

*The Network for Public Health Law, [State Laws Limiting Public Health Protections: Hazardous for Our Health](https://www.networkforphl.org/wp-content/uploads/2022/11/Analysis-of-State-Laws-Limiting-Public-Health-Protections-1.pdf) (October 2022), available at <https://www.networkforphl.org/wp-content/uploads/2022/11/Analysis-of-State-Laws-Limiting-Public-Health-Protections-1.pdf>.*

States have continued to be active in this area. North Carolina adopted its limitations & prohibitions that are specific to COVID-19 vaccinations in 2023.

# Summary of NC's COVID-19 vaccination restrictions (S.L. 2023-134, sec. 5.8 (effective 1/1/24))



Image source: pbs.org

## Public employees (G.S. 143-162.10; 130A-158.3; 153A-465; 160A-499.10)

NC state and local government agencies may not require employees to be vaccinated against COVID-19 or to show proof of vaccination (with some exceptions for state facilities & others in which vaccination is federally required).

## Children and students (G.S. 130A-152(f))

The Commission for Public Health may not require COVID-19 vaccinations.

Public schools, community colleges, UNC system institutions, and private colleges/universities that receive state funds may not require students to be vaccinated or to show proof of vaccination (with some exceptions if the course of study is subject to an external requirement).

## Other individuals (G.S. 130A-158.3, 153A-465, 160A-499.10)

No state or local government, agency, or public health official may require any person to be vaccinated against COVID-19 or to show proof of vaccination.



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# Questions?

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