

HAWAII ADMINISTRATIVE RULES
TITLE 17
DEPARTMENT OF HUMAN SERVICES
CHAPTER 897

EMERGENCY RULES RELATING TO EVIDENCE OF HEALTH STANDARDS

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§17-897-1 Scope. These emergency rules shall apply to the evidence of health standards for registering family child care homes under section 17-891.1, and licensing group child care centers and group child care homes under section 17-892.1, infant and toddler child care centers under section 17-895, and before and after school child care facilities under section 17-896. These emergency rules are designed to address a current nationwide shortage of Tubersol® and Aplisol® purified protein derivative solution (PPD) which is used in tuberculosis (TB) skin test examinations which led the State department of health (DOH) to suspend TB skin test examination requirements for 120 days from April 11, 2013, by emergency rules adopted in chapter 11-164.1. [Eff. MAY 20 2013] (Auth: HRS §346-162, §346-172)

§17-897-2 Purpose. The purpose of these rules is to provide revised evidence of health requirements for TB clearances for children enrolled in child care facilities, and for employees, substitutes, volunteers, and adults living or working in a child care facility. [Eff. MAY 20 2013] (Auth: HRS §346-162, §346-172)

§17-897-3 Definitions. As used in this chapter:

"Child care facility" or "child care facilities" means family child care homes under section 17-891.1, group child care centers and group child care homes under section 17-892.1, infant and toddler child care centers under section 17-895, and before and after school child care facilities under section 17-896.

"Health care practitioner" means a physician who is licensed to practice medicine or osteopathic medicine (M.D. or O.D.), a physician assistant (PA), or an advanced practice registered nurse (APRN) licensed to practice in any of the states or territories of the United States, or a nurse practitioner (NP) licensed by the state of Hawaii.

"Highest risk categories" means individuals who (1) have had contact with another individual with infectious TB, or (2) have symptoms suggestive of TB disease, or (3) are newly arriving immigrants referred automatically through the federal immigration system, or (4) are infected with HIV, or (5) are immune-compromised due to disease or medical treatment.

"Substitute" means a person who serves as a replacement for no more than ten consecutive working days in the same position when another caregiver is absent on an emergency or unplanned basis.

"Volunteer" means any person offering services to a child care facility without remuneration, except for reimbursable personal expenses allowed by the caregivers, who provide direct child care of 10 hours or more per week, who serve 10 or more hours per week, or who are counted in the staff-child ratio. [Eff. MAY 20 2013] (Auth: HRS §346-162, §346-172)

§17-897-4 Evidence of child's health. (a) Each child care facility shall require and obtain from the parent or guardian of each child entering a child care facility a health record that complies with the provisions of sections 302A-1154 through 302A-1163, HRS, which relate to school entry examination requirements for immunization and physical examination; except that for TB, if the child has not obtained a TB clearance prior to April 11, 2013, the child shall complete a consultation visit with a health care practitioner:

- (1) The health care practitioner conducting the consultation must assess whether the child is in a highest risk category;
 - (A) If the child is assessed by the health care practitioner to be in a highest risk category, the child must show written evidence of a negative TB skin test or a satisfactory chest x-ray prior to attending the child care facility;
 - (B) If the child is assessed by the health care practitioner to not be in a highest risk category, the child care facility must have written evidence on file that the child has been assessed prior to the child's attendance at the child care facility and is not in any of the highest risk categories and that the health care practitioner does not recommend that the child complete the chest x-ray evaluation;
 - (C) For those children who have been assessed by a health care practitioner to not be in a highest risk category and the health care practitioner does not recommend the child complete the chest x-ray evaluation, the TB clearance requirement shall be deferred until the DOH has reinstated conducting TB skin tests for all persons; and
- (2) Once DOH has reinstated conducting TB skin tests for all persons, all children who were deferred from TB skin test requirements shall provide written evidence of a negative TB skin test within ninety (90) days of the reinstatement of DOH's TB clearance requirements.

(b) Subsection (a) shall not apply to children in a before and after school child care facility covered under chapter 17-896. The child's enrollment in school shall be evidence of the child's good health.

(c) Each child care facility shall require and obtain from the parent or guardian of each child enrolled at the child care facility a signed acknowledgement from the parent or guardian that the parent or guardian is aware of the temporary suspension of the TB skin testing requirements, and that there may be children, employees, substitutes, volunteers, and adults in the child care facility who may not have TB clearances. [Eff. MAY 20 2013] (Auth: HRS §346-162, §346-172)

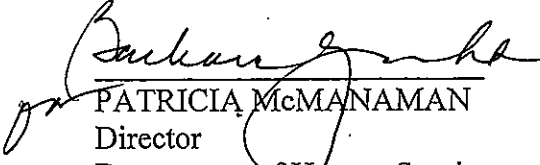
§17-897-5 Provider's health standards. (a) Each child care facility shall maintain on file at the child care facility evidence that employees, substitutes, volunteers, and adults in the facility are free from health problems which would have a harmful effect on the children or which would interfere with effective functioning, as follows:

- (1) The results of a physical examination by a health care practitioner of each employee, substitute, volunteer, and adult in the child care facility;
- (2) Written evidence that each employee, substitute, volunteer, and adult in the facility is free from communicable TB as a result of a negative TB skin test or a satisfactory chest x-ray taken one year before beginning child care.
 - (A) If the employee, substitute, volunteer, or adult in the child care facility has not completed a TB clearance prior to April 11, 2013, the employee, substitute, volunteer, or adult in the child care facility must complete a consultation visit with a health care practitioner;
 - (B) The health care practitioner conducting the consultation shall assess whether the individual is in a highest risk category.
 - (i) If the individual is assessed by the health care practitioner to be in a highest risk category, the individual shall show written evidence of a negative TB skin test or a satisfactory chest x-ray prior to beginning child care;
 - (ii) If the individual is assessed by the health care practitioner to not be in a highest risk category, the individual shall have written evidence on file that the individual has been assessed prior to beginning child care and is not in any of the highest risk categories and that the health care practitioner does not recommend the individual complete the chest x-ray evaluation;
 - (iii) For those individuals who have been assessed by a health care practitioner to not be in a highest risk category, and the health care practitioner does not recommend the individual complete the chest x-ray evaluation, the TB clearance requirement shall be deferred until the DOH has reinstated conducting TB skin tests for all persons.
 - (C) Once DOH has reinstated TB skin testing requirements, all employees, substitutes, volunteers, and adults in the child care facility who were deferred from TB skin test requirements shall provide written evidence of a negative TB skin test within ninety (90) days of the reinstatement of TB skin test requirements.

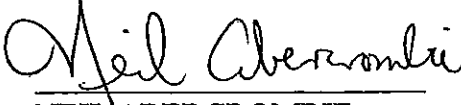
(b) Each child care facility shall require and obtain from each employee, substitute, volunteer, or adult in the child care facility a signed acknowledgement that the employee, substitute, volunteer, or adult in the child care facility is aware of the temporary suspension of the TB skin testing requirements, and that there may be children, employees, substitutes, volunteers, and adults in the facility who may not have TB clearances.

(c) Each child care facility shall post by all entrances used by the public a notice that indicates the temporary suspension of the TB skin testing requirements which may result in the child care facility having children, employees, substitutes, volunteers, or adults who may not have TB clearances. [Eff. MAY 20 2013] (Auth: HRS §346-162, §346-172)

§17-897-6 Effective period of these rules. These emergency rules shall take effect upon filing with the Lieutenant Governor's office and shall be effective for no longer than one hundred twenty (120) days from the effective date. [Eff. MAY 20 2013] (Auth: HRS §346-162, §346-172)


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Director
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APPROVED:


NEIL ABERCROMBIE
Governor
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Dated: 5.20.13

APPROVED AS TO FORM:


Deputy Attorney General

Filed