



**March 7, 2023**

**Public Hearing - Joint Committee for Review of Administrative Rules  
Regarding DHS 144 as changed by CR 19-079**

**Testimony of Erin Runk: Co-Founder of Wisconsin United for Freedom**

Good morning, my name is Erin Runk, and I am one of the Co-Founders of Wisconsin United for Freedom – Wisconsin’s leading advocacy organization founded to uphold vaccine choice for every man, woman, and child in our state. I want to thank the chairs of this committee, Senator Nass and Representative Neylon, and the rest of the committee members for holding the public hearing today and providing the opportunity to give my public testimony on behalf of myself as a Wisconsin resident, and on behalf of Wisconsin United for Freedom.

In 2019, my life changed forever. I made the decision to fly down, knowing virtually no one, to Atlanta, Georgia and attend an Advisory Committee on Immunization Practices meeting of the CDC. It was an eye-opening experience and led me to connecting with others around the state to uphold vaccine choice here in Wisconsin.

Tara gave an overview of why we oppose these rules, and I am going to provide some supporting details of our opposition to each rule.

**Firstly, rule one added varicella (chicken pox) and the meningococcal disease to Wisconsin’s definition of substantial outbreak.**

What this does, is unfairly lead to the exclusion of unvaccinated children from school, even though Wisconsin DHS’s own data shows that children who are fully vaccinated for varicella also get chicken pox.

In Wisconsin’s **Vaccine-Preventable Diseases Surveillance Summary Wisconsin, 2018**, they show that of the reported cases of chicken pox, 65% of children ages 1-3, and 56% of children ages 4-18 were up to date for their age, but came down with chicken pox anyway. An additional 10% of reported cases of chicken pox in ages 4-18 had received one dose of the varicella vaccine. Only 32% of reported cases of chicken pox in Wisconsin in 2018 were reported to have been unvaccinated. So in total in 2018, for children ages 1-18, of reported cases of chicken pox in Wisconsin, more children who were vaccinated with one or more doses of varicella vaccine were reported to have caught chicken pox vs. children who were unvaccinated.

Chicken pox has historically been considered mild prior to the introduction of a vaccine. By changing the definition of ‘substantial outbreak,’ unvaccinated children will be punished and

excluded from school, even though data collected from Wisconsin DHS has demonstrated that the vaccine fails to protect, and fully vaccinated individuals can still develop chickenpox. Further, several peer-reviewed studies have shown that the live virus chicken pox vaccine can cause vaccine strain chicken pox infection in others via shedding. This information is also noted in the vaccine package insert published by the vaccine manufacturer.

**DHS Rule 2 amended the definition of a substantial outbreak of mumps here in Wisconsin, which is currently defined as an incidence of the disease exceeding 2% of the unvaccinated population.**

By changing the definition of ‘substantial outbreak,’ unvaccinated children will be excluded from school even though data collected from DHS clearly shows that unvaccinated individuals are not developing mumps. Vaccine failure related to an ineffective vaccine is responsible for all reported mumps cases in Wisconsin in recent years. This is not unique to Wisconsin. Numerous studies examining mumps outbreaks that have occurred in highly vaccinated populations have experts admitting that both the waning of vaccine-acquired immunity and an ineffective mumps vaccine are to blame. In 2019, the year for which the CDC data is most current, there were only 26 reported cases of mumps in Wisconsin, but we do not know the ages of those individual cases.<sup>1</sup> According to the WI DHS Mumps Update from January 14, 2019<sup>2</sup>, it appears that most mumps cases are occurring in individuals over 18 years old, which would clearly not be the age range of school aged children.

DHS proposed to change the definitions of substantial outbreak for varicella, meningococcal, and mumps so that they can punish and exclude unvaccinated children, even though their own data shows that vaccinated children still catch these diseases.

**DHS Rule 3 – proposed to move the current recommendation for Tdap from 6<sup>th</sup> grade to 7<sup>th</sup> grade to ensure that children are old enough to meet this age minimum (they claimed some children are 10 years old when starting 6<sup>th</sup> grade). They claimed this will reduce the number of children who enter 6<sup>th</sup> grade and are not vaccinated with Tdap, as some clinicians choose to wait until they are 11 years of age to vaccinate.**

This rule change is no longer necessary as the CDC revised its recommendations and published guidelines on January 24, 2020 which state that if the Tdap vaccine is administered at age 10, the dose is considered a valid dose towards the adolescent Tdap requirement.<sup>3</sup>

**DHS Rule 4 added the meningococcal vaccine to the list of vaccines required for students entering 7<sup>th</sup> grade. They also proposed a booster dose requirement for students entering 12<sup>th</sup> grade.**

Meningococcal disease is a devastating disease, and we are fortunate that this disease is very rare. The meningococcal vaccine does not provide herd immunity, and most American children will asymptotically develop immunity to meningococcal disease as they progress to adulthood. Meningococcal disease caused by serotypes A, C, W, and Y had already decreased to historical lows prior to the introduction of MenACWY vaccine in 2005. While public health officials report that the vaccine has decreased the rates even further, rates of the disease have decreased in all age groups – including the age groups for which the vaccine is not recommended. The incidence of meningococcal disease in the U.S. is already well below the Healthy People 2020 goal. Further, the vaccine is only 80-85% effective but after 2-5 years, it has been found to be at best only 58% effective. Wisconsin has a high voluntary compliance rate for ages 13-17 - the targeted age group for this rule, and this vaccine will continue to be available to any family who wishes to receive it.<sup>4</sup>

Rates have continued to drop and in 2019, there were approximately 375 cases in the entire United States. Of note, only 9 cases occurred from strains found in the meningococcal vaccine among persons 11 through 23 years of age.<sup>5</sup> In Wisconsin in 2019, the CDC reports 4 cases of meningococcal disease, with only one being in the serogroup ACWY. Meningococcal disease is exceptionally rare.<sup>6</sup>

**And now for Rule 5: Under the previous rule prior to the implementation of this CR 19-079, a parent or adult student may have reported a history of varicella disease as an acceptable exception to varicella vaccination. With this rule change, WI DHS proposed to only allow the exception when a history of varicella disease has been reported by a health care provider.**

This rule would ensure parents would no longer be able to report their child's chicken pox illness to the school district, and would be required to see a healthcare provider, or receive a health care provider's signature on their form, to confirm infection. Chicken pox is generally a mild disease not requiring medical attention. In Dr. Stephanie Schauer's testimony back in March of 2020, she stated that chicken pox is a serious disease. How many individuals in this room had chicken pox as a child? Chicken pox has never been classified as a serious disease – it's a mild childhood illness that then virtually provides lifelong immunity.

Insisting that parents must take their highly contagious child to a doctor puts immunocompromised individuals at risk of contracting the illness and potentially suffering more serious adverse outcomes. DHS responded to comments from their public hearing, stating, "The administrative rule change proposal does not dictate that a student be seen by a health care provider while ill with varicella. The health care provider may verify the disease with a history of symptoms or laboratory confirmation<sup>7</sup>." Parents are already verifying their child's history of chicken pox based on symptoms so why does it suddenly become accurate only if they provide those details to a doctor? Also, it is highly unlikely many doctors would be willing to make an

official diagnosis to exempt a child/family from the varicella vaccine requirement for school entry, without seeing that patient during the active infection, and we suspect DHS knows this.

The only other option is titer testing, and DHS intentionally chose to leave this language out of the administrative rule text to guarantee this as an option for families, despite receiving dozens of written comments from concerned parents. Families would take on the financial burden of all charges involved with visiting the doctor for a diagnosis. There is no provision for a titer test to be used as proof of immunity. This change may impact children who have had the illness in the past. In 2019, of which the most recent data is reported, there were 312 cases of varicella (chicken pox) reported in Wisconsin.<sup>8</sup>

Again – WI DHS changed nothing significant after the DHS Public Hearing in July of 2019. They were going to do exactly what they wanted to do anyway – and took none of the concerns that Wisconsin parents, the main stakeholders this rule affects, seriously. This shows WI DHS’s complete lack of disregard for working with the people of Wisconsin. This seems to be standard practice for the bureaucratic health agencies in our country: no dialogue, no scientific discourse – only mandates and decries of “trust the science”.

Again, I would like to bring up the fact that Wisconsin United for Freedom did request a meeting with WI DHS after the Public Hearing in July of 2019 – and that request was denied.

In summary, DHS was advocating for requiring/mandating the meningococcal vaccine for 7<sup>th</sup> and 12<sup>th</sup> graders **at the same time as organizations they utilized in their advisory committee were also advocating for removing Wisconsin’s personal exemption to vaccination** for day care students and K-12 students.<sup>9</sup>

The rule-making authority process which allows Wisconsin DHS to change vaccine mandates removes the process from legislators who are accountable to their voting constituents; *this is unacceptable*.

Chickenpox is a mild childhood illness and does not need to be classified under the “*substantial outbreak*” category.

Wisconsin already has a high **VOLUNTARY** uptake of the meningococcal vaccine. The most recent data shows over 80% are already voluntarily choosing to have their children ages 13-18 vaccinated for MenACWY since 2019.<sup>10</sup>

The CDC confirms that as American children enter adolescence and become adults, the vast majority will have *asymptomatically developed immunity to meningococcal disease*,<sup>11 12</sup> and according to CDC, meningococcal vaccine does not achieve herd immunity.<sup>13</sup>

Meningococcal serogroup B accounted for the majority of all invasive disease, and this strain is

not covered in the DHS proposed requirement. <sup>14</sup>

In Wisconsin, from 2016-2019, there were *7 cases of meningococcal disease reported from the result of a strain covered by MenACWY vaccine.* <sup>15 16 17 18</sup>

Wisconsin DHS does not publicly report the vaccination status of individuals who developed meningococcal disease, therefore we do not know whether vaccine failure factored into the equation. Vaccination status (when known) is available for mumps, varicella, and pertussis as part of [Wisconsin's Vaccine-Preventable Diseases Surveillance Summaries](#) and Wisconsin DHS should be required to be more transparent with the data they are collecting.<sup>19</sup>

Since DHS advocated for this mandate on Wisconsin children when 80% already voluntarily comply with DHS's recommendations, what is next? We must be forward thinking here and understand that if it were up to DHS, many more, if not all, vaccines would be mandated. **They, as a governmental agency, do not stand for choice on this matter.**

I ask, as a mother, as a scientist, and as a Co-Founder of Wisconsin United for Freedom, for this committee to respectfully suspend these DHS rules as changed by CR 19-079.

**Erin Runk**  
**Co-Founder**  
**Wisconsin United For Freedom**

## References

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- <sup>1</sup> TABLE 2I. Annual reported cases of notifiable diseases, by region and reporting area, United States and U.S. Territories, excluding Non-U.S. Residents\*, 2019†. (n.d.). Wonder.cdc.gov. Retrieved March 2, 2023, from <https://wonder.cdc.gov/nndss/static/2019/annual/2019-table2i.html>
- <sup>2</sup>(2019, January 14). *Mumps Update Wisconsin* [Review of *Mumps Update Wisconsin*]. Wisconsin Department of Health Services. <https://dhs.wisconsin.gov/immunization/mumps-report.pdf>
- <sup>3</sup> CDC [Use of Tetanus Toxoid, Reduced Diphtheria Toxoid, and Acellular Pertussis Vaccines: Updated Recommendations of the Advisory Committee on Immunization Practices — United States, 2019](#) *MMWR* Jan. 24, 2020; 69(3);77–83
- <sup>4</sup> (2022, May). *Percent of adolescents aged 13-18 who received one dose of meningococcal (MenACWY) vaccine, 2020 and 2021* [Review of Percent of adolescents aged 13-18 who received one dose of meningococcal (MenACWY) vaccine, 2020 and 2021]. Wisconsin Department of Health Services. <https://dhs.wisconsin.gov/publications/p02279b.pdf>
- <sup>5</sup> CDC [Enhanced Meningococcal Disease Surveillance Report, 2019](#) No Date
- <sup>6</sup> CDC [National Notifiable Diseases Surveillance System, 2019 Annual Tables of Infectious Disease Data](#). Atlanta, GA. CDC Division of Health Informatics and Surveillance, 2021.
- <sup>7</sup> *Rulemaking Report to Legislature Clearing House Rule 19-079* [Review of *Rulemaking Report to Legislature Clearing House Rule 19-079*]. Wisconsin Department of Health Services. Retrieved March 1, 2023, from [https://docs.legis.wisconsin.gov/code/misc/chr/lc\\_ruletext/cr\\_19\\_079\\_agency\\_report\\_to\\_legislature.pdf](https://docs.legis.wisconsin.gov/code/misc/chr/lc_ruletext/cr_19_079_agency_report_to_legislature.pdf)
- <sup>8</sup> TABLE 2I. Annual reported cases of notifiable diseases, by region and reporting area, United States and U.S. Territories, excluding Non-U.S. Residents\*, 2019†. (n.d.). Wonder.cdc.gov. Retrieved March 2, 2023, from <https://wonder.cdc.gov/nndss/static/2019/annual/2019-table2i.html>
- <sup>9</sup> [2019 Assembly Bill 248 \(wisconsin.gov\)](#)
- <sup>10</sup>[Wisconsin EPH Tracker](#)
- <sup>11</sup> CDC. [Manual for Surveillance of VPD: Chapter 8 – Meningococcal Disease](#). Apr 1, 2014.
- <sup>12</sup> Goldschneider I, Gotschlich EC, [Artenstein MS. Human immunity to the meningococcus. I. The role of humoral antibodies. J Exp Med 1969;129:1307-26.](#)
- <sup>13</sup> CDC [About Meningococcal Vaccines - Immunogenicity and Vaccine Efficacy](#) May 19, 2017
- <sup>14</sup> Wisconsin Department of Health Services [Meningococcal Disease](#) Dec. 5, 2017
- <sup>15</sup> CDC [National Notifiable Infectious Diseases and Conditions: United States – TABLE 2j. Reported cases of notifiable diseases, by region and reporting area - - United States and U.S. territories, 2016](#) Atlanta, GA. CDC Division of Health Informatics and Surveillance, 2018.

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<sup>16</sup> CDC [National Notifiable Infectious Diseases and Conditions: United States – TABLE 2j. Reported cases of notifiable diseases, by region and reporting area - - United States and U.S. territories, 2017](#) Atlanta, GA. CDC Division of Health Informatics and Surveillance, 2018.

<sup>17</sup> CDC [National Notifiable Diseases Surveillance System, 2018 Annual Tables of Infectious Disease Data](#). Atlanta, GA. CDC Division of Health Informatics and Surveillance, 2019.

<sup>18</sup> CDC [National Notifiable Diseases Surveillance System, 2019 Annual Tables of Infectious Disease Data](#). Atlanta, GA. CDC Division of Health Informatics and Surveillance, 2021.

<sup>19</sup> Wisconsin Department of Health Services [Vaccine-Preventable Diseases Surveillance Summary Wisconsin](#) Apr. 9, 2019