

September 18, 2025

Topic: Vaccine policy and religious exemption

Background: West Virginia enacted a compulsory vaccination law in 2015 which required that “...a child entering school or a state-regulated child care center in this state must be immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough.”¹ (the “W.VA Vaccine Law”). The W.VA Vaccine Law provides for medical exemptions² but does not specifically provide for religious exemptions. In 2023, the West Virginia legislature enacted the Equal Protection for Religion Act (EPRA) which, in essence, prevents a West Virginia state action/law from substantially burdening a person’s exercise of religion.³ Then, on January 14, 2025, the Governor of West Virginia issued an Executive Order which mandates an exemption to the W.VA Vaccine Law for those with “...objections based on religious and moral beliefs...”⁴

On August 21, 2025, the Director of the Office for Civil Rights (OCR), Paula Stannard, sent a letter to the West Virginia Health Departments Participating in the Vaccines for Children Program (VCP) reminding them that the OCR “...enforces federal civil rights laws which prohibit discrimination in the delivery of health and human services based on race, color, national origin, disability, age, sex, religion, and the exercise of conscience...”⁵ Moreover, Director Stannard stated: “Providers participating in the VCP must comply ‘with applicable State law, including any such law relating to any religious or other exemption.’”⁶ She went on to say that, because West Virginia participates in the VCP, “...it is obligated to ensure that **its VCP providers comply with applicable state laws like EPRA**, which requires recognition of religious exemptions from West Virginia’s Compulsory Vaccination Law.”⁷ [Emphasis added]

Analysis: Georgia has a compulsory vaccination law similar to West Virginia’s, but Georgia’s law already includes an exemption for the parent or legal guardian who “...objects to immunization of the child on the grounds that the immunization conflicts with the religious beliefs of the parent or guardian...”⁸ (henceforth, the “Georgia Vaccine Exemption Law”). Thus, the logical conclusion from Director Stannard’s directive above is that Georgia providers must comply with the Georgia Vaccine Exemption Law. The question, however, is how does a Georgia provider - participating in the VCP or other federally funded programs - comply with the Georgia Vaccine Exemption Law when they are not referenced in same? In other words, the Georgia Vaccine Exemption Law requires schools, child care learning centers, and nurseries, to recognize a religious exemption, but does not address a medical provider’s obligation to recognize a religious exemption in connection with his/her medical practice’s vaccination policy.

In conjunction with Curi’s risk management and internal legal teams, we obtained an outside legal opinion on this issue (henceforth, the “Attorney Opinion” or “AO”). According to the AO, the Georgia Vaccine Exemption Law does not appear to apply to healthcare providers, as it does not specify or suggest that a medical practice must accept and treat a patient who is unvaccinated due

¹ *W.Va. Code § 16-3-4 (b)*

² *Id.* at (h)

³ *W.Va. Code § 35-1A-1 (a)(1)*

⁴ *W.Va. Exec. Order No. 7-25*; <https://apps.sos.wv.gov/adlaw/executivejournal/readpdf.aspx?DocID=97525>

⁵ See [letter to West Virginia health departments](#)

⁶ *Id.* citing 42 U.S.C. § 1396s(c)(2)(B)(ii)

⁷ *Id.*

⁸ *O.C.G.A. § 20-2-177(e)*

to the parent's or guardian's religious objection to vaccination. Moreover, the AO notes that there does not appear to be any law or regulation in Georgia that requires a private medical practice - even one participating in a federal program like the VCP - to accept a minor patient whose parent refuses to vaccinate the minor patient based upon religious grounds.

The Attorney Opinion finds that Director Stannard overstepped the OCR's authority in her August 21 letter referenced above, especially since the implementing regulations for the statute do not mention religious or other exemptions in the text, but instead focus on vaccine distribution, access, and cost.⁹ The AO also finds that, by highlighting a vague provision in the statute, the OCR - through nonbinding regulatory guidance - is attempting to bootstrap an inapplicable state statute to impose a legal requirement that does not exist.

Advice:

Nevertheless, while the Attorney Opinion *may be* correct that the OCR is overstepping its authority and cannot force Georgia providers to accept (or keep) unvaccinated patients in their practice who have claimed a religious exemption (despite the practice's strict vaccination policy), the question is whether you are willing to test that theory by spending the time and expense defending yourself before the OCR (if investigated) to *hopefully* prove that you are correct.

The more conservative approach would be to require any parent/guardian who objects to vaccination on religious grounds to provide an affidavit stating that the immunization conflicts with the parent's/guardian's religious beliefs. It is also reasonable for the practice to require such an affidavit before it agrees to accept a minor child as a patient or, once it learns of a parent's religious beliefs at the time vaccination is recommended, before seeing the patient again. Moreover, the practice also would be within its rights, according to the Attorney Opinion, to advise such parents/guardians that the practice will not provide treatment to the child in the midst of an epidemic of the disease that the applicable vaccination is designed to prevent, and that the practice will require certain measures to be taken (e.g., masking, covering the child's skin, etc.) should the child require an appointment and have symptoms consistent with the disease, because an exemption to vaccination based upon a religious belief does not override all other considerations, including those relating to public health and safety.

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⁹ 42 U.S. Code § 1396s