WEST VIRGINIA CODE CHAPTER 16 ARTICLE 3B

§16-3B-1. Definitions.

(a) "Health care provider" means any licensed health care professional, organization or institution, whether public or private, under whose authority pertussis vaccine is administered.

(b) "Major adverse reaction" means any serious illness, disability or impairment of mental, emotional, behavioral or physical functioning or development, the first manifestation of which appears within four weeks after the date of administration of pertussis vaccine and for which there is reasonable scientific or medical evidence that pertussis vaccine causes, or significantly contributed to, such effect.

(c) "Any other adverse reaction" means any reaction which the department, after consultation with the medical and pharmacy faculties of West Virginia's teaching hospitals, determines by guideline is a basis for not continuing with pertussis vaccine administration.

(d) "Pertussis vaccine" means any vaccine that contains materials intended to prevent the occurrence of pertussis, whether or not the materials are administered separately or in conjunction with other materials intended to prevent the occurrence of other diseases.

§16-3B-2. Information supplied to individuals' parents prior to administration of pertussis vaccine.

(a) Prior to the administration of pertussis vaccine, the health care provider shall provide to the individual's parent or guardian written information satisfying the requirements of this section, and by appropriate inquiries attempt to elicit the information necessary to make the determinations required by this section:

(1) The frequency, severity and potential long-term effects of pertussis;

(2) Possible adverse reactions to pertussis vaccine which, if they occur, should be brought to the immediate attention of the health care provider;

(3) A form listing symptoms to be monitored and containing places where information can be recorded to assist in reporting to the health care provider, health officer and the department;

(4) Measures parents should take to reduce the risk of, or to respond to, any adverse reaction;

(5) Early warning signs or symptoms to which parents should be alert as possible precursors to an adverse reaction;

(6) When and to whom parents should report any adverse reaction; and

(7) The information required under section four of this article.

§16-3B-3. Recordation of pertussis vaccine administration.

(a) At the time of administration of pertussis vaccine to an individual, the health care provider shall record in a permanent record to which the patient or the patient's parent or guardian shall have access on request:

(1) The date of each vaccination;

(2) The manufacturer and lot number of the vaccine used for each;

(3) Any other identifying information on the vaccine used; and

(4) The name and title of the health care provider.

(b) Within twenty-four hours after an adverse reaction is recognized by any health care provider who has administered pertussis vaccine to an individual and has reason to believe that the individual has had a major adverse reaction to the vaccine, such health care provider shall:

(1) Record all relevant information in the individual's permanent medical record; and

(2) Report the information including the manufacturer's name and lot number to the county health officer who shall immediately forward the information to the department. On receipt of the information, the department shall immediately notify the vaccine manufacturer, and the United States centers for disease control.

§16-3B-4. Data collection on pertussis vaccine administration.

(a) By guideline, the department shall establish a system, sufficient for the purposes of subsections (b) and (c) of this section, to collect data from the local health officers, from public and private health care providers and from parents on the incidence of pertussis and major adverse reactions to pertussis vaccine.

(b) On the basis of information collected under this subsection and of other information available, the department shall periodically revise and update the information required by and the guidelines adopted under §16-3B-2 of this code.

(c) The department shall report to the United States Centers for Disease Control and Prevention all information collected under this section, including that received under §16-3B-3 of this code.

§16-3B-5. Public hearings.

(a) The department shall adopt guidelines, after notice and public hearing in accordance with the administrative procedures act, chapter twenty-nine-a of this code, setting forth:

(1) The circumstances under which pertussis vaccine should not be administered;

(2) The circumstances under which administration of the vaccine should be delayed;

(3) Any categories of potential recipients who are significantly more vulnerable to major adverse reactions than is the general population; and

(4) Procedures to notify all health care providers of the content of the final guidelines and all updates issued thereafter.

(b) The administration of pertussis vaccine to an individual may not be required by any provision of law if, in the judgment of the health care provider:

(1) The circumstances specified under this section are present; or

(2) Taking into account the information specified under this section as well as all other relevant information, the risk to the potential recipient outweighs the benefits both to the potential recipient and to the public in administering the vaccine.

(c) Nothing in this section shall be construed to affect any emergency authority of the director of health under any other provision of law to protect the public health.