

**MERCURY-FREE VACCINE ACT
EXEMPTION DECLARATION**

NOW COMES, the Department of Public Health (hereinafter, the "Department"), by and through Damon T. Arnold, Director, pursuant to the Mercury-Free Vaccine Act, 410 ILCS 51/1 et seq., sets forth this Exemption Declaration, and herein, states as follows:

RECITALS

WHEREAS, pursuant to 20 ILCS 2305/2, the Department "has general supervision of the interests of the health and lives of the people of the State" of Illinois; and

WHEREAS, pursuant to 410 ILCS 315/2, the Department has been charged with upholding "the public policy of this State that all children shall be protected, as soon after birth as medically indicated, by the appropriate vaccines and immunizing procedures to prevent communicable diseases which are or which may in the future become preventable by immunization"; and

WHEREAS, the State of Illinois has recognized and acknowledged through the Communicable Disease Prevention Act, 410 ILCS 315/1, that the general usage of "effective, safe and widely used vaccines and immunization procedures have been developed and are available to prevent ...diseases and to limit their spread"; and

WHEREAS, historically in Illinois, local health departments and private providers have provided immunization services to adults, children and other high risk individuals since the mid-1970's. The vaccines are purchased by the individual providers or local health departments with local funds; and

WHEREAS, the Mercury-Free Vaccine Act, 410 ILCS 51/5, has set forth that any mercury-containing vaccines that contain more than 1.25 micrograms of mercury per dose are to be banned commencing on January 1, 2006; and

WHEREAS, the Mercury-Free Vaccine Act, 410 ILCS 51/5, has set forth that no person shall be vaccinated with a vaccine or injected with any product that contains, or prior to dilution, had contained as an additive, any mercury based product, whether at preservative or trace amount levels.

WHEREAS, the Mercury-Free Vaccine Act at 410 ILCS 51/10 also provides that the Department "may exempt the use of a vaccine from this Act if the Department finds that an actual or potential bio-terrorist incident or other actual or potential public health emergency, including an epidemic or shortage of supply of a vaccine..., makes necessary the administration of a vaccine containing more mercury than the maximum level set forth in subsection (a) or subsection (b) of Section 5 in the case of influenza vaccine."

WHEREFORE, after conducting a review of vaccines containing thimerosal, the Department Hereby Declares an EXEMPTION to the Mercury-Free Vaccine Act for use of the following vaccines: "H1N1 Influenza Vaccine".

IN SUPPORT of this Exemption to the vaccines, the Department states as follows:

In evaluating the basis for the Exemption for each of the H1N1 vaccines, the Department established that the vaccine was procured directly by the federal government for administration of the voluntary pandemic mass vaccination program. Current manufacturing processes limit the total amount of preservative-free product that is currently available to private and public sector providers in the U.S. Each state will receive an allocation of H1N1 vaccine that includes multiple formulations from multiple manufacturers. Allocations are pro rata and not negotiable. The Department concludes that inadequate amounts of H1N1 influenza vaccine containing less than 1.25 micrograms of preservative exist to meet the needs of the emergency response to the H1N1 Influenza Pandemic.

The Department concludes an exemption for use of any H1N1 Influenza vaccine exceeding the above level is needed due to response to the H1N1 Influenza Pandemic.

Accordingly, the Department, by and through its Director, pursuant to Section 10 of the Mercury-Free Vaccine Act, hereby exempts the use of the following vaccines: "H1N1 Influenza Vaccine" from the requirements of the Mercury-Free Vaccine Act. This Exemption is applicable from the date of signature until June 30, 2010 and may be reissued or amended upon further determination by the Department.

Damon T. Arnold, M.D., MPH

10-1-09

Damon T. Arnold, M.D., M.P.H.
Director, Illinois Department of Public Health

Date