Maine Citizen's Guide to the

Special Referendum Election

Tuesday, March 3, 2020

In Accordance with
the November 7, 2019
Proclamation of the Governor

Matthew Dunlap
Secretary of State

State of Maine
Office of the Secretary of State
Augusta, Maine 04333

Dear Fellow Citizen,

The information in this booklet is intended to help voters learn about the question that will appear on the March 3, 2020 Special Referendum Election ballot. Referendum elections are an important part of the heritage of public participation in Maine.

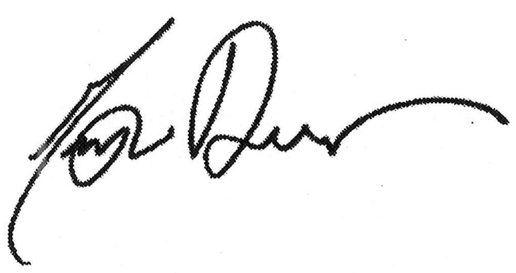
Inside this booklet, you will find:

- the referendum question;
- the legislation the question represents;
- a summary of the intent and content of the legislation;
- an explanation of the significance of a "yes" or "no" vote; and
- public comments filed in support of or in opposition to the ballot measure.

For information about how and where to vote, please contact your local Municipal Clerk or call Maine's Division of Elections at 624-7650. Information is also available online at www.maine.gov/sos.

The Department of the Secretary of State and the Attorney General have worked together to prepare this booklet of information and we hope you find it helpful.

Sincerely,



Matthew Dunlap
Secretary of State

Question 1: People's Veto

Do you want to reject the new law that removes religious and philosophical exemptions to requiring immunization against certain communicable diseases for students to attend schools and colleges and for employees of nursery schools and health care facilities?

To the Governor of the State of Maine:

In accordance with Section 17 of Article IV, Part Third of the Constitution of the State of Maine, the undersigned electors of the State of Maine, qualified to vote for Governor, residing in said State, whose names have been certified, hereby request to veto Public Law 2019, Chapter 154, "An Act To Protect Maine Children and Students from Preventable Diseases by Repealing Certain Exemptions from the Laws Governing Immunization Requirements".

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6355, sub-§2, as amended by PL 2001, c. 326, §2, is further amended to read:

2. Medical exemption. The parent or the child provides a ~~physician's~~ written statement from a licensed physician, nurse practitioner or physician assistant that, in the licensed physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable.

Sec. 2. 20-A MRSA §6355, sub-§3, as amended by PL 2001, c. 326, §2, is repealed.

Sec. 3. 20-A MRSA §6355, sub-§4 is enacted to read:

4. Student covered by individualized education plan. A student covered by an individualized education plan on September 1, 2021 who elected a philosophical or religious exemption from immunization requirements on or before September 1, 2021 pursuant to the law in effect prior to that date may continue to attend school under that student's existing exemption as long as:

A. The parent or guardian of the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that parent or guardian and has made that parent or guardian aware of the risks and benefits associated with the choice to immunize; or

B. If the student is 18 years of age or older, the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that student and has made that student aware of the risks and benefits associated with the choice to immunize.

Sec. 4. 20-A MRSA §6358, as amended by PL 2001, c. 326, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

§ 6358. Rules; requirements; reports

1. Rules authorized. The commissioner and the Director of the ~~Bureau of Health,~~Maine Center for Disease Control and Prevention within the Department of Health and Human Services, shall jointly issue rules necessary for the effective implementation of this subchapter, including, but not limited to, rules specifying those diseases for which immunization is required and establishing school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized children from school. The rules may not include any provision governing medical exemptions. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter ~~II~~-A2-A.

2. Local requirements authorized. Immunization requirements more stringent than the provisions of this subchapter may be adopted by ordinance enacted by a municipality, by regulation of a school board or by policy of a private school's governing board.

3. Report. By January 1st of each odd-numbered year, the Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services shall submit a report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and education matters concerning any new developments in the evaluation of vaccine safety and effectiveness. The joint standing committees of the Legislature having jurisdiction over health and human services matters and education matters are each authorized to submit a bill during the legislative session in which the report was submitted.

Sec. 5. 20-A MRSA §6359, sub-§3, ¶A, as amended by PL 1991, c. 146, §3, is further amended to read:

A. The parent or the student provides ~~a physician's written statement or~~ a written statement ~~from a school health provider~~from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable.

Sec. 6. 20-A MRSA §6359, sub-§3, ¶B, as amended by PL 2001, c. 326, §6, is repealed.

Sec. 7. 20-A MRSA §6359, sub-§6, as amended by PL 1991, c. 146, §4, is further amended to read:

6. Rules; requirements; reports. The Director of the ~~Bureau of Health~~Maine Center for Disease Control and Prevention within the Department of Health and Human Services shall adopt rules necessary for the effective implementation of this subchapter, including, but not limited to, rules establishing immunization requirements ~~and medical exceptions to receiving vaccines or toxoids~~ for each disease, school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized students from school. The rules may not include any provision governing medical exemptions. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Immunization requirements more stringent than the provisions of this subchapter may be adopted by a school board or by policy of a private school's governing board.

Sec. 8. 22 MRSA §802, sub-§4-B, ¶A, as enacted by PL 2001, c. 185, §2, is amended to read:

A. A medical exemption is available to an employee who provides a ~~physician's~~ written statement from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more diseases may be medically inadvisable.

Sec. 9. 22 MRSA §802, sub-§4-B, ¶B, as enacted by PL 2001, c. 185, §2, is repealed.

Sec. 10. 22 MRSA §8402, sub-§3, ¶A, as amended by PL 2001, c. 645, §10, is further amended to read:

A. The department shall adopt rules regarding the health of staff as required to protect the health and safety of the children. The rules must include a requirement that every 2 years each licensee, administrator or other staff member of the nursery school who provides care for children be declared free from communicable disease by a licensed physician~~, except that this requirement may be waived for a person who objects on the grounds of sincerely held religious or philosophical belief~~, nurse practitioner or physician assistant. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~2-A.

Public Comments

No public comments were filed in support of Question 1.

Public Comment in Opposition to Question 1

Comment submitted by:
Dr. Laura Blaisdell, MPH, FAAP and Caitlin Gilmet
Co-Chairs, Maine Families for Vaccines
P.O. Box 11284
Portland ME 04104

After an extraordinary effort by Maine parents, physicians, infectious disease experts, nurses, teachers, disease survivors, and legislators, LD 798 was signed into law in May of 2019. Unfortunately, anti-vaccine activists were successful in bringing the question of a veto to our upcoming March 3, 2020 ballot. This vote will be the first of its kind in the United States, and the results will set the standard for children's safety across the country.

We have one chance to vote NO and prevent the spread of infectious disease in our schools and communities. Question 1 endangers our children. If this measure passes, more of them will get sick from preventable diseases including measles, mumps, and whooping cough.

Maine Families for Vaccines is pleased that the American Nurses Association Maine, the Maine Chapter of the American Academy of Pediatrics, school nurses, primary care providers such as InterMed, and infectious disease doctors all oppose this ballot question. Each agree that public school children should be vaccinated to prevent the spread of measles, mumps, rubella, polio, chicken pox, diphtheria, pertussis, and tetanus. These preventable illnesses can have devastating effects on children, especially those who are medically vulnerable, and on adults with compromised immune systems.

Repealing the vaccination law could have catastrophic effects to health and wellness for infants, children and adults living with complex medical conditions, seniors, and pregnant women. No one has the right to put a child at risk—we must defend the right of every child, and every adult, to be safe from disease.

On March 3rd, we are proud to stand with the majority of Maine families voting NO on the veto.

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.

Public Comment in Opposition to Question 1

Comment submitted by:
Peter P. Michaud, JD, RN
P.O. Box 190
Manchester ME 04351

Question 1 is dangerous. Repealing the vaccination law could have devastating effects on our children. If this question passes, more of them will get sick from preventable diseases like measles, mumps, and whooping cough. Polio, once a parent's greatest nightmare (until Dr. Salk developed his now-famous vaccine), could reestablish itself. I am old enough to remember the last polio epidemic in Maine in 1959. One of my close relatives died because he was not vaccinated. We can't go back to the medical dark ages.

Measles has spread quickly in schools across the country where just a small number of children were not vaccinated, causing thousands of children to get sick. This threat is not happening far away; unfortunately, Maine suffers from one of the highest vaccine refusal rates in the country. It is no surprise that whooping cough (pertussis) outbreaks have been in the news—Maine's rate is the worst in the nation. If you have questions about vaccines or these illnesses, ask your child's pediatrician or your physician.

Maine's nurses, infectious disease doctors, pediatricians and other specialists, the Maine chapter of the American Nurses Association, the Maine Medical Association, the Maine Osteopathic Association, and many others oppose this ballot question. The overwhelming majority of Mainers who are medically trained are voting "No" because we have seen the risks of these diseases and the benefits of vaccination.

Modern medicine had all but eliminated these deadly diseases because almost everyone was vaccinated. Actual medical reasons for not being vaccinated are very rare. Now, these deadly diseases are coming back. Question 1 would reverse the gains of modern medicine that prevent them.

The medical science is clear: Vaccinations are safe and effective. They save lives. On March 3rd, vote "No" to protect Maine children from deadly infectious diseases.

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Intent and Content
Prepared by the Office of the Attorney General

This referendum question asks whether voters want to reject the new law, enacted by the Legislature as Chapter 154 of the Public Laws of 2019, that would eliminate the ability to claim a religious or philosophical objection as the basis for avoiding the requirement for certain categories of people to be immunized against certain communicable diseases.

The following categories of individuals are required by law to be immunized against communicable diseases:

1) students who attend public or private elementary and secondary schools;

2) students who attend any post-secondary school in Maine, including colleges, universities, community colleges, and schools for the health professions;

3) employees of nursery schools (but not day care facilities); and

4) employees of designated health care facilities, which are defined to include any hospitals, nursing facilities, residential care facilities, multi-level health care facilities, intermediate care facilities for persons with intellectual disabilities, and home health agencies.

The specific diseases for which immunization or proof of immunity is required are listed in rules adopted jointly by the Department of Education and the Department of Health and Human Services. The diseases include: diphtheria, chickenpox, measles, mumps, pertussis, poliomyelitis, rubella, meningococcal meningitis and tetanus.

Individuals are medically exempt from the immunization requirement if they submit a written statement from a physician indicating that immunization against one or more of these diseases may be medically inadvisable for that individual. The medical exemption would remain in the law regardless of the vote on this referendum. However, Chapter 154 expands the list of medical professionals who can issue the written statement to include a nurse practitioner or physician assistant, as well as a licensed physician.

Before the enactment of Chapter 154, Maine law also allowed exemptions from the immunization requirement for students (or the parents of students under the age of 18) who held "a sincere religious belief … contrary to the immunization requirement," or were opposed to immunization "for philosophical reasons." The immunization requirement for nursery school staff members could be waived "for a person who objects on the grounds of sincerely held religious or philosophical belief." An employee of a health care facility could be exempt based on a written statement of "a sincere religious or philosophical belief that is contrary to the immunization requirement." Chapter 154 repeals these religious and philosophical exemptions, leaving only the medical exemption.

The people's veto referendum seeks to retain the philosophical and religious exemptions that were in the law but were repealed by the Legislature by the enactment of Chapter 154.

If it is not vetoed, Chapter 154 will take effect on September 21, 2021. Students who are covered by an individualized education plan on that date and who obtained a philosophical or religious exemption before that date, may continue to attend school based on that exemption as long as they have consulted with a licensed medical provider (physician, nurse practitioner or physician assistant) regarding the risks and benefits associated with that choice.

A "YES" vote rejects the new law and keeps the religious and philosophical exemptions to immunization requirements.

A "NO" vote approves the new law, which removes religious and philosophical exemptions to immunization requirements.

Sec. 11. Rules. The Department of Education and the Department of Health and Human Services shall amend their rules to remove any rules exempting persons from immunization requirements because of their religious or philosophical beliefs.

Rules adopted pursuant to this section are routine technical rules pursuant to the Maine Revised Statutes, Title 20-A, section 6358, subsection 1 and section 6359, subsection 6.

Sec. 12. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 22, section 802, subsection 4-B, paragraph A and Title 22, section 8402, subsection 3, paragraph A and that repeal Title 20-A, section 6355, subsection 3 and Title 20-A, section 6359, subsection 3, paragraph B take effect September 1, 2021.

Public Comment in Opposition to Question 1

Comment submitted by:
Dr. Deborah Hagler, President
The Maine Chapter of the American Academy of Pediatrics
c/o Maine Medical Association
30 Association Drive, Box 190
Manchester ME 04351

The Maine Chapter of the American Academy of Pediatrics (MeAAP) strongly opposes Question 1.

As an organization dedicated to the health of all children, MeAPP opposes the veto to Maine's law eliminating nonmedical exemptions to vaccines for children in daycare and school. Immunizations are a sound means of providing a safe environment for children and workers.

Vaccination is unique within the realm of medical interventions because it not only provides a benefit to the patient who is vaccinated, but also confers a significant public health benefit in terms of community immunity. Similarly, refusal of vaccination not only puts the individual child at risk, but also increases societal risk by decreasing community immunity and adding to a population of unimmunized individuals within which vaccine-preventable disease may spread.

Declining community immunity may be a significant risk for children and adults with medical contraindications to vaccination, who rely on community immunity for protection from vaccine-preventable diseases. Thus, nonmedical exemptions effectively disenfranchise people with medically indicated contraindications to vaccines from receiving equal protection under public health policy.

The Maine AAP only supports **medically indicated exemptions** to specific immunizations as determined for each individual child by their physician. We view all other non-medical exemptions for school entry as inappropriate for individual, public health, and ethical reasons. We supported the law to remove nonmedical exemptions for school entry and we strongly oppose Question 1, which would leave our children vulnerable to infectious disease.

Immunization requirements for daycare and school attendance are an effective means of protecting people from vaccine-preventable diseases, both by direct protection from the vaccine and indirect protection via community immunity.

For these reasons, Maine's pediatricians support a No vote on Question 1.

The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.