

# U.S Public Readiness and Emergency Preparedness (PREP) Act Secretly Amended to Allow Pharmacists to Vaccinate Children Ages 3-18

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Global Research, September 11, 2020  
[Health Impact News](#)

Region: [USA](#)

Theme: [Law and Justice](#), [Science and Medicine](#)

*While our nation was busy spending a considerable amount of time discussing racial inequalities (as we should) or whether or not public schools and colleges were going to open or start online, or debating the upcoming national political conventions, our federal government, specifically, the Secretary of Health and Human Services (HHS) issued his 3<sup>rd</sup> amendment to The Public Readiness and Emergency Preparedness Act (PREP).*

The Act was first enacted this year by a declaration from the Secretary of HHS on March 10, 2020.

The **3rd amendment**, issued on August 24<sup>th</sup>, 2020, allows pharmacists to administer vaccines to children ages 3-18. Many states had previously established restrictions on who could administer childhood vaccinations.

I must admit that this announcement slipped past me last week. I was alerted to it when talking with a parent advocate one evening. I could not believe it and thought it must be just for a specific state.

Later, I searched the internet to find a few articles dated August 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup>. The Federal Register listed the action on Monday, August 24, 2020. [1]

This action by the Secretary of HHS allows certain licensed pharmacists to order and administer, and pharmacy interns (who are acting under the supervision of a licensed pharmacist) to administer, any vaccine that the Advisory Committee on Immunization Practices (ACIP) recommends to persons ages 3 through 18.

This amendment was prompted by a report from the CDC in which it found a significant decrease in rates of routine childhood vaccinations. [2]

Now with the federal announcement of this declaration, how will this play out in the states? How much weight does this declaration have regarding state law which traditionally regulates the activities of state licensed pharmacists?

So the question now to be answered, does this declaration by the Secretary of HHS supersede state law?

In the last couple of years, there were many proposed legislative bills introduced to allow pharmacists to administer childhood vaccines that did not go anywhere in state legislatures around the country.

Is this declaration a product of those legislative failures?

Or is this a flare shot high in the air to signal to state health departments to use their rule-making authority to modify statutes to allow pharmacies to enter the childhood vaccination arena?

Even my home state of Minnesota passed legislation in May, 2020 to allow pharmacists to administer any FDA-approved COVID vaccine to children as young as 6 years of age.

This is not a mandate, but rather setting up a horrible scenario for which pharmacists are clearly not trained to handle. The method of passing legislation during a Peacetime Emergency declaration by governors to circumvent public testimony is very troubling.

The PREP Act has been previously amended twice prior to this declaration.

Previous amendments of The PREP Act include:

- The **1st amendment** on April 10<sup>th</sup> to extend liability immunity to covered countermeasures authorized under the newly passed CARES Act. [3] This declaration provides limited immunity to manufacturers of masks, plastic shields, gloves and other protective equipment.
- The **2nd amendment** on June 4<sup>th</sup> for the purpose of clarifying that covered countermeasures include qualified countermeasures that limit the harm COVID-19 might otherwise cause. [4] Basically, allowing the use of therapeutics and other measures that were not designed for COVID, to be used if necessary.

Now comes the problem of allowing pharmacists to administer childhood vaccines.

In the Vaccine Court currently, the number one petition filed for compensation is for shoulder injury as the result of a vaccination (SIRVA). Most of the injured persons (adults) received influenza or Tdap vaccinations from their local retail pharmacy such as Walgreens, CVS, RiteAid or Target.

If these retail pharmacies cannot properly administer a vaccine to an adult, why would we allow this for children?

One of the biggest problems when filing a petition claiming shoulder injury is the failure of the retail pharmacies to accurately record in the medical records which arm the vaccine was administered in and who did it. These pharmacies can barely keep up with adults receiving one vaccine at a time.

What happens when a parent brings their child into the business to get several vaccines? Will the pharmacy tech or pharmacist record the date, time, which arm or leg?

Probably not.

Will they be able to obtain and examine a thorough review of medical records prior to

administering the vaccine?

Probably not.

Most doctors lack any comprehensive training of what a vaccine injury is or adverse reactions in a child, let alone a pharmacist receiving this type of training.

This has all the makings for a disaster.

But why is our government transferring the responsibility of administering vaccines to retail pharmacies instead of doctors' offices or clinics?

It just might be the pushback from doctors who claim it is not profitable or too costly to administer basic vaccinations in their office. From their point of view, it would be more cost effective in a pharmacy setting.

Or is it something more sinister? It does appear that our government, with pressure from Pharma, is trying to "gut" the NVICP and slowly move injury compensation into the CounterMeasures Injury Compensation Program (CICP).

This is clearly the landing spot for the COVID vaccine. And it is the black hole for those who are injured or have perished because of a vaccine.

If the public is withheld case decisions and information about CICP, then vaccine injury claims will no longer exist.

So many agendas by our government agencies and medical community have no regard for the best interest of the people.

The BIG problem here is The PREP Act being used as a vehicle to circumvent Congress. The real concern is will we see a federal mandate for COVID vaccine at some point in the future via The PREP Act?

They are adopting policy via fiat without proper and necessary public comments and testimony. Will the PREP Act become the vehicle to advance vaccine policy in the United States?

I believe that we will see a few more amendments to The PREP Act if Congress will not address the liability issue for businesses, schools, colleges to open up. There are lawsuits already filed by employees for wrongful death (WalMart) and hospitalizations of employees claiming being infected by COVID while employed.

We must remain vigilant, we must be prepared to act, and we must educate our elected officials on a federal level, state and local level as well.

The PREP Act is in force as declared in March, 2020 until October, 2024 unless revoked by the Secretary of HHS or POTUS, or another health care emergency emerges.

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Wayne Rohde is the author of [The Vaccine Court](#). He has an upcoming Podcast of NVICP, The PREP Act, CounterMeasures Injury Comp Program and COVID vaccine legal issues starting Mid-October.

## Notes

[1] <https://www.govinfo.gov/content/pkg/FR-2020-08-24/pdf/2020-18542.pdf>

[2]

[https://www.seyfarth.com/news-insights/third-amendment-to-prep-act-declaration-further-expands-scope-of-liability-immunity-for-medical-countermeasures-against-covid-19.html?utm\\_source=Mondaq&utm\\_medium=syndication&utm\\_campaign=LinkedIn-integration](https://www.seyfarth.com/news-insights/third-amendment-to-prep-act-declaration-further-expands-scope-of-liability-immunity-for-medical-countermeasures-against-covid-19.html?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration)

[3] <https://www.govinfo.gov/content/pkg/FR-2020-04-15/pdf/2020-08040.pdf>

[4] <https://www.govinfo.gov/content/pkg/FR-2020-06-08/pdf/2020-12465.pdf>

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