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## Coates' Canons Blog: 2010 Public Health Legislation: Vaccines and Pimiento Cheese

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I am in the process of coordinating the Local Government Legislative Review Webinar scheduled for this Thursday, August 12 from 10-12 (it's not too late to register!). We have a fantastic and diverse lineup of presenters talking about everything from ABC changes to zoning for video sweepstakes. As the faculty coordinator for the program, I was feeling some pressure to present some content about public health or animal control law. After working through the agenda, I ultimately decided *not* to present my riveting update on the regulation of pimiento cheese sandwiches. But, for those of you who are just dying to know what happened, I'll tell you here. I'll also review some important changes to our state's vaccine program.

Overall, the 2010 short session was relatively quiet for public health legislation. There were a couple of items that caught my attention though – one makes significant changes to the state's Childhood Immunization Program and the other carves out an unusual exception to the sanitation laws governing food establishments.

### Childhood Immunizations

For many years, the state has purchased vaccines for children and provided them at no cost to health care providers across the state, including local health departments, private practices and clinics. This program was designed in part to boost immunization rates for children and capitalize on bulk purchasing rates. As part of this year's budget bill, the General Assembly eliminated this funding stream (see Section 10.13(a)). The state has some funding in place to help bridge the gap as the 2010-11 school year begins but after that the state funding is gone. The expectation is that providers, including health departments, will bill insurers or obtain reimbursement from other programs – such as the federal Vaccines for Children program. Since the state program has been in place, insurers have not been required to pay for many vaccines covered by their plans (except for fees associated with administration of the vaccine) because the state purchased them for everyone. Now insurers will be on the hook.

Some are concerned that this change will negatively affect the state's immunization rates because there may be new financial barriers for families or caregivers. For example, some insurance plans may provide coverage for vaccines but the coverage may not be "first dollar" – in other words, the child's caregiver may need to pay a co-pay, coinsurance or a deductible in order for the child to receive the immunization. If federal health reform is implemented as written, this problem goes away in 2014 because "first-dollar" coverage will be mandated. Immunization rates could also decline if new kinks in the supply chain emerge. All health care providers will need to put new systems in place to budget for the purchase of vaccine supplies up front and pursue reimbursement when it is available. As a result, they may not have an adequate supply on hand. It is important to note that health departments will be in the same boat as other providers – they will not have an "unlimited" supply of vaccines from the state to tap into as a community's safety net provider.

State and local public health officials will be keeping a close eye on the state's immunization rates and they will be working on new systems to implement these changes.

### Pimiento Cheese

Environmental health specialists in local health departments are charged with inspecting the sanitation of food and lodging establishments (G.S. 130A, Article 8, Part 6). Most establishments that prepare or serve food for human consumption must be inspected on a regular basis and must receive a passing sanitation grade in order to stay open. There are a handful of exceptions to this law. For example, a nonprofit organization that prepares or serves food or drink for pay for only a couple of days a month may be exempt. Also, a market that sells uncooked cured country ham and engages in

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minimal slicing, weighing, or wrapping of the ham may be exempt.

This session, the General Assembly added an exception that captured some media attention as it developed. It came to be after a UNC-TV documentary featured *Priddy's General Store* in Danbury. One of the store's attractions is old-fashioned sandwiches made to order. After the documentary aired, the health department determined that Priddy's was not in compliance with the state's sanitation laws. The result: A new exception to the state public health laws (S.L. 2010-180; see section 18). In order to qualify, the food establishment must:

- (1) Be a traditional country store
- (2) Sell uncooked sandwiches or similar food items
- (3) Engage in minimal preparation (such as slicing bananas, spreading peanut butter, mixing and spreading pimiento cheese and assembling these items into sandwiches) as long as this minimal preparation is the *only* activity that would otherwise bring the store under the state's sanitation laws.

The exception may seem broad, but the definition of "traditional country store" narrows it significantly – the store must have been in "continuous operation for at least 75 years." There probably aren't too many establishments in the state that meet that definition.

This legal development is interesting because – although the exception is tightly drawn – it sends a strong message to public health officials in our state. It reminds me of the backlash in Oregon after a health department official shut down a 7 year old girl's lemonade stand. It also reminds me of many conversations I have had over the last few months with health directors and others about exercising their discretion in enforcing public health laws. Some feel that they must enforce every public health law "by the book" and others choose to exercise some discretion. When the public's health is potentially at risk, I would think that these types of decisions would be very hard to make.

## Links

- [www.sog.unc.edu/courses/0717/](http://www.sog.unc.edu/courses/0717/)
- [www.ncleg.net/Sessions/2009/Bills/Senate/PDF/S897v8.pdf](http://www.ncleg.net/Sessions/2009/Bills/Senate/PDF/S897v8.pdf)
- [www.cdc.gov/vaccines/programs/vfc/default.htm](http://www.cdc.gov/vaccines/programs/vfc/default.htm)
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