

16103687D

HOUSE BILL NO. 1342

Offered January 21, 2016

A *BILL to amend and reenact §§ 32.1-46 and 32.1-46.01 of the Code of Virginia, relating to immunization.*

Patrons—Filler-Corn, Stolle, Aird and Robinson

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-46 and 32.1-46.01 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-46. Immunization of patients against certain diseases.

A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized in accordance with the Immunization Schedule developed and published by the Centers for Disease Control and Prevention (CDC), Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). The required immunizations for attendance at a public or private elementary, middle or secondary school, child care center, nursery school, family day care home or developmental center shall be those set forth in the State Board of Health Regulations for the Immunization of School Children. The Board's regulations shall at a minimum require:

1. A minimum of three properly spaced doses of hepatitis B vaccine (HepB).

2. A minimum of three or more properly spaced doses of diphtheria toxoid. One dose shall be administered on or after the fourth birthday.

3. A minimum of three or more properly spaced doses of tetanus toxoid. One dose shall be administered on or after the fourth birthday.

4. A minimum of three or more properly spaced doses of acellular pertussis vaccine. One dose shall be administered on or after the fourth birthday. A booster dose shall be administered prior to entry into the sixth grade.

5. Two or three primary doses of Haemophilus influenzae type b (Hib) vaccine, depending on the manufacturer, for children up to 60 months of age.

6. Two properly spaced doses of live attenuated measles (rubeola) vaccine. The first dose shall be administered at age 12 months or older.

7. One dose of live attenuated rubella vaccine shall be administered at age 12 months or older.

8. One dose of live attenuated mumps vaccine shall be administered at age 12 months or older.

9. All children born on and after January 1, 1997, shall be required to have one dose of varicella vaccine on or after 12 months.

10. Three or more properly spaced doses of oral polio vaccine (OPV) or inactivated polio vaccine (IPV). One dose shall be administered on or after the fourth birthday. A fourth dose shall be required if the three dose primary series consisted of a combination of OPV and IPV.

11. One to four doses, dependent on age at first dose, of properly spaced pneumococcal conjugate (PCV) vaccine for children up to 60 months of age.

12. Three doses of properly spaced human papillomavirus (HPV) vaccine for females. The first dose shall be administered before the child enters the sixth grade.

The parent, guardian or person standing in loco parentis may have such child immunized by a physician or registered nurse or may present the child to the appropriate local health department, which shall administer the vaccines required by the State Board of Health Regulations for the Immunization of School Children without charge to the parent or person standing in loco parentis to the child if (i) the child is eligible for the Vaccines for Children Program or (ii) the child is eligible for coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), or 10 U.S.C. § 1071 et seq. (CHAMPUS). In all cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or CHAMPUS, the Department shall seek reimbursement from the health carrier, Medicare, Medicaid, CHIP, or CHAMPUS for all allowable costs associated with the provision of the vaccine. For the purposes of this section, the Department shall be deemed a participating provider with a managed care health insurance plan as defined in § 32.1-137.1.

B. A physician, registered nurse or local health department administering a vaccine required by this section shall provide to the person who presents the child for immunizations a certificate that shall state the diseases for which the child has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.

INTRODUCED

HB1342

59 C. The vaccines required by this section shall meet the standards prescribed in, and be administered
60 in accordance with, regulations of the Board.

61 D. The provisions of this section shall not apply if: *a vaccine is medically contraindicated.*

62 1. The parent or guardian of the child objects thereto on the grounds that the administration of
63 immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of
64 disease has been declared by the Board;

65 2. The parent or guardian presents a statement from a physician licensed to practice medicine in
66 Virginia, a licensed nurse practitioner, or a local health department that states that the physical condition
67 of the child is such that the administration of one or more of the required immunizing agents would be
68 detrimental to the health of the child; or

69 3. E. Because the human papillomavirus is not communicable in a school setting, a parent or
70 guardian, at the parent's or guardian's sole discretion, may elect for the parent's or guardian's child not to
71 receive the human papillomavirus vaccine, after having reviewed materials describing the link between
72 the human papillomavirus and cervical cancer approved for such use by the Board.

73 E. F. For the purpose of protecting the public health by ensuring that each child receives
74 age-appropriate immunizations, any physician, physician assistant, nurse practitioner, licensed
75 institutional health care provider, local or district health department, the Virginia Immunization
76 Information System, and the Department of Health may share immunization and patient locator
77 information without parental authorization, including, but not limited to, the month, day, and year of
78 each administered immunization; the patient's name, address, telephone number, birth date, and social
79 security number; and the parents' names. The immunization information; the patient's name, address,
80 telephone number, birth date, and social security number; and the parents' names shall be confidential
81 and shall only be shared for the purposes set out in this subsection.

82 E. G. The State Board of Health shall review this section annually and make recommendations for
83 revision by September 1 to the Governor, the General Assembly, and the Joint Commission on Health
84 Care.

85 **§ 32.1-46.01. Virginia Immunization Information System.**

86 A. The Board of Health shall establish the Virginia Immunization Information System (VIIS), a
87 statewide immunization registry that consolidates patient immunization histories from birth to death into
88 a complete, accurate, and definitive record that may be made available to participating health care
89 providers throughout Virginia, to the extent funds are appropriated by the General Assembly or
90 otherwise made available. The purposes of VIIS shall be to (i) protect the public health of all citizens of
91 the Commonwealth, (ii) prevent under- and over-immunization of children, (iii) ensure up-to-date
92 recommendations for immunization scheduling to health care providers and the Board, (iv) generate
93 parental reminder and recall notices and manufacturer recalls, (v) develop immunization coverage
94 reports, (vi) identify areas of under-immunized population, and (vii) provide, in the event of a public
95 health emergency, a mechanism for tracking the distribution and administration of immunizations,
96 immune globulins, or other preventive medications or emergency treatments.

97 B. The Board of Health shall promulgate regulations to implement the VIIS that shall address:

98 1. Registration of voluntary participants, including, but not limited to, a list of those health care
99 entities that are authorized to participate and any forms and agreements necessary for compliance with
100 the regulations concerning patient privacy promulgated by the federal Department of Health and Human
101 Services;

102 2. Procedures for confirming, continuing, and terminating participation and disciplining any
103 participant for unauthorized use or disclosure of any VIIS data;

104 3. Procedures, timelines, and formats for reporting of immunizations by participants;

105 4. Procedures to provide for a secure system of data entry that may include encrypted online data
106 entry or secure delivery of data files;

107 5. Procedures for incorporating the data reported on children's immunizations pursuant to subsection
108 E F of § 32.1-46;

109 6. The patient identifying data to be reported, including, but not limited to, the patient's name, date
110 of birth, gender, telephone number, home address, birth place, and mother's maiden name;

111 7. The patient immunization information to be reported, including, but not necessarily limited to, the
112 type of immunization administered (specified by current procedural terminology (CPT) code or Health
113 Level 7 (HL7) code); date of administration; identity of administering person; lot number; and if present,
114 any contraindications, or religious or medical exemptions;

115 8. Mechanisms for entering into data-sharing agreements with other state and regional immunization
116 registries for the exchange, on a periodic nonemergency basis and in the event of a public health
117 emergency, of patient immunization information, after receiving, in writing, satisfactory assurances for
118 the preservation of confidentiality, a clear description of the data requested, specific details on the
119 intended use of the data, and the identities of the persons with whom the data will be shared;

120 9. Procedures for the use of vital statistics data, including, but not necessarily limited to, the linking

121 of birth certificates and death certificates;

122 10. Procedures for requesting immunization records that are in compliance with the requirements for
123 disclosing health records set forth in § 32.1-127.1:03; such procedures shall address the approved uses
124 for the requested data, to whom the data may be disclosed, and information on the provisions for
125 disclosure of health records pursuant to § 32.1-127.1:03;

126 11. Procedures for releasing aggregate data, from which personal identifying data has been removed
127 or redacted, to qualified persons for purposes of research, statistical analysis, and reporting; and

128 12. Procedures for the Commissioner of Health to access and release, as necessary, the data
129 contained in VIIS in the event of an epidemic or an outbreak of any vaccine-preventable disease or the
130 potential epidemic or epidemic of any disease of public health importance, public health significance, or
131 public health threat for which a treatment or vaccine exists.

132 The Board's regulations shall also include any necessary definitions for the operation of VIIS;
133 however, "health care entity," "health care plan," and "health care provider" shall be as defined in
134 subsection B of § 32.1-127.1:03.

135 C. The establishment and implementation of VIIS is hereby declared to be a necessary public health
136 activity to ensure the integrity of the health care system in Virginia and to prevent serious harm and
137 serious threats to the health and safety of individuals and the public. Pursuant to the regulations
138 concerning patient privacy promulgated by the federal Department of Health and Human Services,
139 covered entities may disclose protected health information to the secure system established for VIIS
140 without obtaining consent or authorization for such disclosure. Such protected health information shall
141 be used exclusively for the purposes established in this section.

142 D. The Board and Commissioner of Health, any employees of the health department, any voluntary
143 participant, and any person authorized to report or disclose immunization data hereunder shall be
144 immune from civil liability in connection therewith unless such person acted with gross negligence or
145 malicious intent.

146 E. This section shall not diminish the responsibility of any physician or other person to maintain
147 accurate patient immunization data or the responsibility of any parent, guardian, or person standing in
148 loco parentis to cause a child to be immunized in accordance with the provisions of § 32.1-46. Further,
149 this section shall not be construed to require the immunization of any person who objects thereto on the
150 grounds that the administration of immunizing agents conflicts with his religious tenets or practices, or
151 any person for whom administration of immunizing agents would be detrimental to his health.

152 F. The Commissioner may authorize linkages between VIIS and other secure electronic databases that
153 contain health records reported to the Department of Health, subject to all state and federal privacy laws
154 and regulations. These health records may include newborn screening results reported pursuant to
155 § 32.1-65, newborn hearing screening results reported pursuant to § 32.1-64.1, and blood-lead level
156 screening results reported pursuant to § 32.1-46.1. Health care providers authorized to use VIIS may
157 view the health records of individuals to whom the providers are providing health care services.