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HOUSE BILL NO. 5070

Offered August 18, 2020

Prefiled August 18, 2020

A BILL to amend and reenact §§ 23.1-800, 32.1-46, as it is currently effective and as it shall become effective, and 32.1-48 of the Code of Virginia, relating to public health emergency; immunizations.

Patrons—LaRock, Avoli, Cole, M.L. and Walker

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-800, 32.1-46, as it is currently effective and as it shall become effective, and 32.1-48 of the Code of Virginia are amended and reenacted as follows:

§ 23.1-800. Health histories and immunizations required; exemptions.

A. No full-time student who enrolls for the first time in any baccalaureate public institution of higher education is eligible to register for his second semester or quarter unless he (i) has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors that includes documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the date on which the immunization was administered, and any further immunizations indicated or (ii) objects to such health history requirement on religious grounds, in which case he is exempt from such requirement.

B. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each student shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.

C. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each full-time student shall be vaccinated against meningococcal disease and hepatitis B unless the student or, if the student is a minor, the student's parent or legal guardian signs a written waiver stating that he has received and reviewed detailed information on the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.

D. Any student is exempt from the immunization requirements set forth in subsections B and C who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices; ~~unless the Board of Health has declared an emergency or epidemic of disease~~; or (ii) presents a statement from a licensed physician that states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.

E. The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.

F. The Council shall, in cooperation with the Board and Commissioner of Health, encourage private institutions of higher education to develop a procedure for providing information about the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine against meningococcal disease and hepatitis B.

§ 32.1-46. (Effective until July 1, 2021) 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

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59 the seventh grade.

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

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

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

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

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

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

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

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

75 The parent, guardian or person standing in loco parentis may have such child immunized by a
76 physician, physician assistant, nurse practitioner, registered nurse, or licensed practical nurse, or a
77 pharmacist who administers pursuant to a valid prescription, or may present the child to the appropriate
78 local health department, which shall administer the vaccines required by the State Board of Health
79 Regulations for the Immunization of School Children without charge to the parent of or person standing
80 in loco parentis to the child if (i) the child is eligible for the Vaccines for Children Program or (ii) the
81 child is eligible for coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C.
82 § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid),
83 Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), or 10 U.S.C. § 1071 et seq.
84 (CHAMPUS). In all cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or
85 CHAMPUS, the Department shall seek reimbursement from the health carrier, Medicare, Medicaid,
86 CHIP, or CHAMPUS for all allowable costs associated with the provision of the vaccine. For the
87 purposes of this section, the Department shall be deemed a participating provider with a managed care
88 health insurance plan as defined in § 32.1-137.1.

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

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

96 D. The provisions of this section shall not apply if:

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

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

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

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

117 F. The State Board of Health shall review this section annually and make recommendations for
118 revision by September 1 to the Governor, the General Assembly, and the Joint Commission on Health
119 Care.

120 § 32.1-46. (Effective July 1, 2021) 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 seventh 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. Two properly spaced doses of varicella vaccine. The first dose shall be administered at age 12 months or older.
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. Two doses of properly spaced human papillomavirus (HPV) vaccine. The first dose shall be administered before the child enters the seventh grade.
13. Two or three properly spaced doses of rotavirus vaccine, depending on the manufacturer, for children up to eight months of age.
14. Two properly spaced doses of hepatitis A vaccine (HAV). The first dose shall be administered at age 12 months or older.
15. Two properly spaced doses of meningococcal conjugate vaccine (MenACWY). The first dose shall be administered prior to entry to seventh grade. The second dose shall be administered prior to entry to twelfth grade.

The parent, guardian or person standing in loco parentis may have such child immunized by a physician, physician assistant, nurse practitioner, registered nurse, or licensed practical nurse, or a pharmacist who administers pursuant to a valid prescription, 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 of 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, physician assistant, nurse practitioner, registered nurse, licensed practical nurse, pharmacist, 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.

C. The vaccines required by this section shall meet the standards prescribed in, and be administered in accordance with, the State Board of Health Regulations for the Immunization of School Children. The State Board of Health shall amend the State Board of Health Regulations for the Immunization of School Children as necessary from time to time to maintain conformity with evidence-based, routinely

recommended vaccinations for children. The adoption of such regulations shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). However, the Department shall (i) provide a Notice of Intended Regulatory Action and (ii) provide for a 60-day public comment period prior to the Board's adoption of the regulations.

D. The provisions of this section shall not apply if:

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

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

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

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

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

§ 32.1-48. Powers of Commissioner in epidemic.

A. Nothing in this article shall preclude the Commissioner from requiring immediate immunization of all persons in case of an epidemic of any disease of public health importance for which a vaccine exists ~~other than a person to whose health,~~ *except that no person shall be required to be immunized if (i) the administration of a vaccine would be detrimental to his health as certified in writing by a physician licensed to practice medicine in this Commonwealth or (ii) he objects to the vaccine on the grounds that administration of such immunizing agents conflicts with his religious tenets or practices.*

B. In addition, the State Health Commissioner shall hold the powers conferred pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter to issue orders of quarantine or prepare orders of isolation for a communicable disease of public health threat.