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**HOUSE BILL NO. 5082**

Offered August 18, 2020

*A BILL to amend and reenact § 32.1-46, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to vaccines; requirements for inclusion on list of required vaccines.*

Patron—LaRock

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

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

**§ 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 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. 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, 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,

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

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

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

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

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

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

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

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

89 *G. No vaccine shall be added to the list of vaccines required pursuant to this section or regulations*  
90 *of the Board if (i) the vaccine is derived from human fetal tissue obtained after an induced abortion, (ii)*  
91 *the vaccine modifies the ribonucleic acid (RNA) or deoxyribonucleic acid (DNA) of the person to whom*  
92 *it is administered, or (iii) the development of the vaccine did not include preclinical testing on*  
93 *laboratory animals prior to clinical trials involving human testing.*

94 *H. The Department shall make data and information about the safety and efficacy of each vaccine*  
95 *required pursuant to this section and regulations of the Board, including data and information about*  
96 *any risk of harm associated with administration of the vaccine, available to the public on a website*  
97 *maintained by the Department. Such data and information shall be presented in a manner that is easily*  
98 *understandable and accessible to all individuals.*

99 **§ 32.1-46. (Effective July 1, 2021) Immunization of patients against certain diseases.**

100 A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth  
101 shall cause such child to be immunized in accordance with the Immunization Schedule developed and  
102 published by the Centers for Disease Control and Prevention (CDC), Advisory Committee on  
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105 private elementary, middle or secondary school, child care center, nursery school, family day care home,  
106 or developmental center shall be those set forth in the State Board of Health Regulations for the  
107 Immunization of School Children. The Board's regulations shall at a minimum require:

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

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

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

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

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

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

120 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

182 each administered immunization; the patient's name, address, telephone number, birth date, and social  
183 security number; and the parents' names. The immunization information; the patient's name, address,  
184 telephone number, birth date, and social security number; and the parents' names shall be confidential  
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191 *ribonucleic acid (RNA) or deoxyribonucleic acid (DNA) of the person to whom it is administered, or*  
192 *(iii) the development of the vaccine did not include preclinical testing on laboratory animals prior to*  
193 *clinical trials involving human testing.*

194 *H. The Department shall make data and information about the safety and efficacy of each vaccine*  
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196 *any risk of harm associated with administration of the vaccine, available to the public on a website*  
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198 *understandable and accessible to all individuals.*