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SENATE BILL NO. 1116

Offered January 13, 2021

Prefiled December 21, 2020

A BILL to amend and reenact §§ 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 powers of State Health Commissioner in epidemic; vaccine; religious tenets or practices.

Patrons—Peake; Delegate: Cole, M.L.

Referred to Committee on Education and Health

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, and 32.1-48 of the Code of Virginia are 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

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59 health insurance plan as defined in § 32.1-137.1.

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

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

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

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

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

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

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

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

91 **§ 32.1-46. (Effective July 1, 2021) Immunization of patients against certain diseases.**

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

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

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

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

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

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

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

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

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

114 9. Two properly spaced doses of varicella vaccine. The first dose shall be administered at age 12
115 months or older.

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

119 11. One to four doses, dependent on age at first dose, of properly spaced pneumococcal conjugate
120 (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.

182 A. Nothing in this article shall preclude the Commissioner from requiring immediate immunization of
183 all persons in case of an epidemic of any disease of public health importance for which a vaccine exists
184 other than (i) a person to whose health the administration of a vaccine would be detrimental as certified
185 in writing by a physician licensed to practice medicine in this Commonwealth *or (ii) a person, including*
186 *a parent or guardian on behalf of a child, who objects on the grounds that the administration of the*
187 *vaccine conflicts with his religious tenets or practices.*

188 B. In addition, the State Health Commissioner shall hold the powers conferred pursuant to Article
189 3.02 (§ 32.1-48.05 et seq.) ~~of this chapter~~ to issue orders of quarantine or prepare orders of isolation for
190 a communicable disease of public health threat.