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HOUSE BILL NO. 2333

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on January 26, 2021)

(Patrons Prior to Substitute—Delegates Bagby and Byron [HB 2328])

A BILL to facilitate the administration of the COVID-19 vaccine; emergency.

Be it enacted by the General Assembly of Virginia:

1. § 1. As used in this act, "eligible health care provider" means any of the following who, due to their education and training, are authorized to administer drugs: (i) any person licensed by a health regulatory board within the Department of Health Professions whose license is in good standing, or was in good standing within the 10 years immediately prior to lapsing; (ii) any emergency medical services provider licensed or certified by the Department of Health (the Department) whose license or certification is in good standing, or was in good standing within the 10 years immediately prior to lapsing; and (iii) any health professions student enrolled in an accredited program in the Commonwealth who is in good academic standing with such student's school and provided that the school certifies that the student has been properly trained in the administration of vaccines.

§ 2. During a state of emergency related to the COVID-19 pandemic declared by the Governor pursuant to § 44-146.17 of the Code of Virginia, an eligible health care provider participating in the program established pursuant to § 3 of this act may administer the COVID-19 vaccine to citizens of the Commonwealth, in accordance with this act.

§ 3. The Department shall establish a program to enable eligible health care providers to volunteer to administer the COVID-19 vaccine to residents of the Commonwealth during a state of emergency related to the COVID-19 pandemic declared by the Governor pursuant to § 44-146.17 of the Code of Virginia. Such program shall include (i) a process by which an eligible health care provider may register to participate in the program and (ii) the training requirements for participating eligible health care providers related to the administration of the COVID-19 vaccine, including training on the intramuscular injection of the COVID-19 vaccine and contraindications and side effects of the COVID-19 vaccine. For the purposes of such program, requirements related to background investigation, training, and orientation for Medical Reserve Corps volunteers shall be waived. To facilitate volunteering, the Department shall include on its website a link to information regarding the program and an online registration form for eligible health care providers in a prominent location.

The Department shall make a list of eligible health care providers who have registered pursuant to this section of the act and complied with requirements for training established by the Department available to each local health department and to hospitals operating community vaccination clinics, and the Department, a local health department, or a hospital operating a community vaccination clinic may request that an eligible health care provider included on such list administer the COVID-19 vaccine at a vaccination clinic operated by the Department, local health department, or hospital. Information included on the list shall not be used for any other purpose and shall not be used after the expiration or revocation of all states of emergency declared by the Governor related to the COVID-19 pandemic.

§ 4. The Department shall ensure that each site at which COVID-19 vaccinations are provided by eligible health care providers who provide such vaccination in accordance with this act meet the following requirements:

1. A sufficient number of eligible health care providers whose scope of practice includes administration of vaccines shall be available at each site at which COVID-19 vaccines are administered by eligible health care providers pursuant to this act to ensure appropriate oversight of administration of vaccines by eligible health care providers whose scope of practice does not include administration of vaccines.

2. A sufficient number of eligible health care providers or other persons who are certified to administer cardiopulmonary resuscitation (CPR) are available at each site at which COVID-19 vaccines are administered by eligible health care providers pursuant to this act; however, a valid certification to perform CPR shall not be required to administer COVID-19 in accordance with this act.

3. Any person who administers a COVID-19 vaccination in accordance with this act shall collect data, including data related to the race and ethnicity of the person to whom the vaccine is administered, and the person who administers a COVID-19 vaccination or the entity that operates a community vaccination site in accordance with this act shall report such data to the Virginia Immunization Information System established pursuant to § 32.1-46.01 of the Code of Virginia.

§ 5. A person who is licensed as a nurse practitioner by the Boards of Medicine and Nursing or licensed as a physician assistant by the Board of Medicine who administers the COVID-19 vaccine pursuant to this act may administer such vaccine without a written or electronic practice agreement.

60 A person who is licensed as a practical nurse by the Board of Nursing who administers the
61 COVID-19 vaccine pursuant to this act may administer such vaccine without supervision.

62 A person who is licensed as a pharmacy technician by the Board of Pharmacy who administers the
63 COVID-19 vaccine pursuant to this act may administer such vaccine under the supervision of a licensed
64 pharmacist. Participation by a licensed pharmacy technician may be in a volunteer capacity or as part
65 of his employment.

66 A health professions student who administers the COVID-19 vaccine pursuant to this act shall be
67 supervised by any eligible health care provider who holds a license issued by a health regulatory board
68 within the Department of Health Professions, and the supervising health care provider shall not be
69 required to be licensed in the same health profession for which the student is studying.

70 § 6. An eligible health care provider who is a health professions student shall, as part of the
71 registration process established by the Department, provide such information necessary to demonstrate
72 that he is in good academic standing with the accredited program in which he is enrolled and that he
73 has been properly trained in the administration of vaccines as may be required by the Department.
74 Information about a health professions student shall not be disclosed by the institution of higher
75 education at which the health professions student is studying unless the health professions student has
76 consented to such disclosure in accordance with the provisions of the federal Family Educational Rights
77 and Privacy Act of 1974, 20 U.S.C. § 1232g and § 23.1-405 of the Code of Virginia, as applicable.

78 Clinical vaccination experience undertaken by a health professions student pursuant to this act may
79 count toward meeting clinical hour requirements of the educational program in which the student is
80 enrolled, subject to a requirement for written verification of such clinical vaccine experience.

81 § 7. In the absence of gross negligence or willful misconduct, any eligible health care provider or
82 entity overseeing any eligible health care provider who administers the COVID-19 vaccine pursuant to
83 this act shall not be liable for (i) any actual or alleged injury or wrongful death or (ii) any civil cause
84 of action arising from any act or omission arising out of, related to, or alleged to have resulted in the
85 contraction of or exposure to the COVID-19 virus or to have resulted from the administration of the
86 COVID-19 vaccine.

87 2. § 1. That the Department of Health (the Department) shall establish a process by which entities,
88 including medical care facilities, hospitals, hospital systems, corporations, businesses, pharmacies,
89 public and private institutions of higher education, and any other professional or community entity
90 operating in the Commonwealth, may volunteer their facilities as sites at which the COVID-19 vaccine
91 may be administered to citizens of the Commonwealth. The Department shall include on its website a
92 link to information regarding such process and an online form that may be used by such entities to
93 register their facilities to serve as sites at which the COVID-19 vaccine may be administered. The
94 Commissioner of Health shall approve such sites in collaboration with local departments of health. In
95 the absence of gross negligence or willful misconduct, any entity that volunteers its facility as a site at
96 which the COVID-19 vaccine may be administered pursuant to this act and at which the COVID-19
97 vaccine is lawfully administered shall not be liable for (i) any actual or alleged injury or wrongful
98 death or (ii) any civil cause of action arising from any act or omission arising out of, related to, or
99 alleged to have resulted in the contraction of or exposure to the COVID-19 virus or to have resulted
100 from the administration of the COVID-19 vaccine.

101 3. § 1. That a public institution of higher education or a private institution of higher education in the
102 Commonwealth may volunteer to provide assistance to the Department of Health and local health
103 departments for data processing, analytics, and program development related to the COVID-19 vaccine
104 through the use of its employees, students, technology, and facilities. Such assistance may include
105 collecting and organizing data on the administration of the COVID-19 vaccine and locations where the
106 vaccine is being administered and performing other nonclinical staffing responsibilities. In the absence
107 of gross negligence or willful misconduct, any institution or individual affiliated with an institution
108 acting pursuant to this act shall not be liable for any civil or criminal penalties.

109 4. § 1. That localities with fire departments or emergency medical services departments employing
110 full-time, nonvolunteer emergency medical technicians (EMT) or paramedics may establish and staff
111 vaccine administration clinics for the purpose of administering COVID-19 vaccines. Vaccines shall be
112 administered at such clinics only by EMTs or paramedics trained in the administration of vaccines and
113 may be provided under the existing operating medical director (OMD) license for such local fire
114 department or emergency medical services department. The Department of Health or hospitals serving
115 the locality are authorized to provide vaccines to locality-created vaccine administration clinics upon the
116 request of the locality, provided that such clinics meet the requirements under this act. In the absence of
117 gross negligence or willful misconduct, any locality and OMD overseeing the administration of or EMT
118 or paramedic who administers the COVID-19 vaccine pursuant to this act shall not be liable (i) any
119 actual or alleged injury or wrongful death or (ii) any civil cause of action arising from any act or
120 omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the
121 COVID-19 virus or to have resulted from the administration of the COVID-19 vaccine.

122 5. That an emergency exists and this act is in force from its passage.