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HOUSE BILL NO. 2333

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on January 28, 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 20 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 20 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. Eligible health care providers may also be employees of localities, pharmacies, or hospitals. Localities, pharmacies, or hospitals that offer their employees to support vaccination clinics shall (i) verify employee certification or licensure, (ii) document completion of the required training, and (iii) provide a list of qualified and available vaccinators to the Department.*

§ 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 place a volunteer link on its website's home page in the same visible location as the other links, such as "GET COVIDWISE," to make the process to volunteer as a health care provider easily accessible.

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 or in partnership with 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.

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

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

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

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

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

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

4. *§ 1. That localities with fire departments, emergency medical services departments, and volunteer rescue squads employing full or part-time, nonvolunteer emergency medical technicians (EMT), paramedics, licensed practical nurses, or registered nurses may establish and staff vaccine administration clinics for the purpose of administering COVID-19 vaccines. Vaccines shall be administered at such clinics only by EMTs, paramedics, licensed practical nurses, or registered nurses trained in the administration of vaccines and may be provided under the existing operating medical director (OMD) license for such local fire department or emergency medical services department. The Department of Health or hospitals serving the locality are authorized to provide vaccines to locality-created vaccine administration clinics upon the request of the locality, provided that such clinics meet the requirements under this act. In the absence of gross negligence or willful misconduct, any locality and OMD overseeing the administration of or EMT, paramedic, licensed practical nurse, or registered nurse who administers the COVID-19 vaccine pursuant to this act shall not be liable (i) any actual or alleged injury or wrongful death or (ii) any civil cause of action arising from any act or*

omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the COVID-19 virus or to have resulted from the administration of the COVID-19 vaccine.

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