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HOUSE BILL NO. 2276

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact §§ 22.1-271.2 and 32.1-46 of the Code of Virginia, relating to immunization; immunization of children against COVID-19.

Patrons—LaRock, Wiley and Williams; Senator: Ruff

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-271.2 and 32.1-46 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-271.2. Immunization requirements.

A. No student shall be admitted by a school unless at the time of admission the student or his parent submits documentary proof of immunization to the admitting official of the school or unless the student is exempted from immunization pursuant to subsection C or is a homeless child or youth as defined in subdivision A 7 of § 22.1-3. If a student does not have documentary proof of immunization, the school shall notify the student or his parent (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C, including any homeless child or youth as defined in subdivision A 7 of § 22.1-3; (iii) that the student may be immunized and receive certification by a licensed physician, licensed nurse practitioner, registered nurse or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Any physician, nurse practitioner, registered nurse or local health department employee performing immunizations shall provide to any person who has been immunized or to his parent, upon request, documentary proof of immunizations conforming with the requirements of this section.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within 90 calendar days. If the student requires more than two doses of hepatitis B vaccine, the conditional enrollment period shall be 180 calendar days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician, licensed nurse practitioner, or local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

However, if a student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 and (a) does not have documentary proof of necessary immunizations or has incomplete immunizations and (b) is not exempted from immunization pursuant to clauses (i) or (ii) of this subsection, the school division shall immediately admit such student and shall immediately refer the student to the local school division liaison, as described in the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall assist in obtaining the documentary proof of, or completing, immunization and other services required by such Act.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C, including notice that such student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health, which shall be a part of the mandatory permanent student record. Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

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59 Within 30 calendar days after the beginning of each school year or entrance of a student, each
60 admitting official shall file a report with the local health department. The report shall be filed on forms
61 prepared by the State Department of Health and shall state the number of students admitted to school
62 with documentary proof of immunization, the number of students who have been admitted with a
63 medical or religious exemption and the number of students who have been conditionally admitted,
64 including those students who are homeless children or youths as defined in subdivision A 7 of § 22.1-3.

65 F. The requirement for Haemophilus Influenzae Type b immunization *and any COVID-19 vaccine* as
66 provided in § 32.1-46 shall not apply to any child admitted to any grade level, kindergarten through
67 grade 12.

68 G. The Board of Health shall promulgate rules and regulations for the implementation of this section
69 in congruence with rules and regulations of the Board of Health promulgated under § 32.1-46 and in
70 cooperation with the Board of Education.

71 **§ 32.1-46. Immunization of patients against certain diseases.**

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

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

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

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

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

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

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

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

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

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

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

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

101 12. Two doses of properly spaced human papillomavirus (HPV) vaccine. The first dose shall be
102 administered before the child enters the seventh grade.

103 13. Two or three properly spaced doses of rotavirus vaccine, depending on the manufacturer, for
104 children up to eight months of age.

105 14. Two properly spaced doses of hepatitis A vaccine (HAV). The first dose shall be administered at
106 age 12 months or older.

107 15. Two properly spaced doses of meningococcal conjugate vaccine (MenACWY). The first dose
108 shall be administered prior to entry to seventh grade. The second dose shall be administered prior to
109 entry to twelfth grade.

110 The parent, guardian or person standing in loco parentis may have such child immunized by a
111 physician, physician assistant, nurse practitioner, registered nurse, or licensed practical nurse, or a
112 pharmacist who administers pursuant to a valid prescription, or may present the child to the appropriate
113 local health department, which shall administer the vaccines required by the State Board of Health
114 Regulations for the Immunization of School Children without charge to the parent of or person standing
115 in loco parentis to the child if (i) the child is eligible for the Vaccines for Children Program or (ii) the
116 child is eligible for coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C.
117 § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid),
118 Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), or 10 U.S.C. § 1071 et seq.
119 (CHAMPUS). In all cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or
120 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~~ immunization requirements 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~~ The parent or guardian, at the parent's or guardian's sole discretion, ~~may elect~~ elects 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; ~~or~~

4. ~~The parent or guardian, at the parent's or guardian's sole discretion, elects for the parent's or guardian's child not to receive the COVID-19 vaccine after having reviewed materials approved for such use by the Board describing studies and data on the efficacy of the vaccine in preventing transmission of COVID-19 among children.~~

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.

G. *Nothing in this section shall be construed to require a parent, guardian, or person standing in loco parentis of a child to cause such child to be immunized against COVID-19.*