

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4581

BY DELEGATES BREWER, IAQUINTA, PYLES AND

CAMPBELL

[Introduced February 13, 2018; Referred
to the Committee on Health and Human Resources
then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §16-3-4b, relating to requiring influenza immunizations for health care workers;
 3 providing certain exceptions; defining terms; requiring persons providing influenza
 4 immunizations to present a certificate of immunization; providing civil penalties that include
 5 monetary fines; and authorizing the director to request the Attorney General or county
 6 prosecutor to institute a civil action to recover the penalty.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER
 INFECTIOUS DISEASES.**

**§16-3-4b. Compulsory immunization of health care workers for influenza; offenses;
 penalties.**

1 (a) As used in this section only:

2 “Health care worker” means a person who works in the health care facility, whether paid
 3 or unpaid, who has the potential for exposure to infectious materials, including body substances,
 4 contaminated medical supplies and equipment, contaminated environmental surfaces, or
 5 contaminated air. This includes, but is not limited to, all employees on payroll, all licensed
 6 independent practitioners affiliated with the hospital but not on payroll, students, trainees,
 7 volunteers and any other contract personnel.

8 “Health care facility” means a publicly or privately owned facility, agency or entity that
 9 offers or provides health care services, whether a for-profit or nonprofit entity and whether or not
 10 licensed, or required to be licensed, in whole or in part, and includes, but is not limited to,
 11 hospitals; skilled nursing facilities; kidney disease treatment centers, including free-standing
 12 hemodialysis units; intermediate care facilities; ambulatory health care facilities; ambulatory
 13 surgical facilities; home health agencies; hospice agencies; rehabilitation facilities; health
 14 maintenance organizations; and community mental health and intellectual disability facilities. For

15 purposes of this definition, “community mental health and intellectual disability facility” means a
16 private facility which provides such comprehensive services and continuity of care as emergency,
17 outpatient, partial hospitalization, inpatient or consultation and education for individuals with
18 mental illness, intellectual disability or drug or alcohol addiction.

19 (b) Except as otherwise provided in this section, a health care worker working in a health
20 care facility must receive an annual influenza immunization between September 1 and October 1
21 of every year as recommended by the Center for Disease Control.

22 (c) A health care worker shall be suspended from his or her employment in a health care
23 facility until he or she has been immunized against influenza as provided in subsection (b) of this
24 section or produces a certificate from his or her personal physician indicating that the influenza
25 vaccination is contraindicated for that particular health care worker. A request for an exemption
26 to the compulsory immunization requirements of this section must be accompanied by a
27 certification from a licensed physician stating that the physical condition of the health care worker
28 is such that immunization is contraindicated or there exists a specific precaution to the particular
29 vaccine.

30 (d) Health officers and physicians who provide vaccinations shall present the person
31 vaccinated with a certificate free of charge showing that they have been immunized against
32 influenza.

33 (e) A health officer or physician who provides a person with a false certificate of
34 immunization against influenza as required by this section shall be subject to a civil penalty of not
35 less than \$25 nor more than \$100 for each violation. When the director believes that a violation
36 of this subsection has occurred the director may request the Attorney General or the prosecuting
37 attorney of the county where the violation occurred to file a civil action for civil penalties, or for
38 injunctive or other relief, or both penalties and injunctive or other relief.

39 (f) A health care facility that continues to employ a health care worker who has not been
40 immunized as required by this section shall be subject to a civil penalty of not less than \$1,000

41 nor more than \$5,000 for each employee working without being immunized per pay period. When
42 the director believes that a violation of this subsection has occurred the director may request the
43 Attorney General or the prosecuting attorney of the county where the violation occurred to file a
44 civil action for civil penalties, or for injunctive or other relief, or both penalties and injunctive or
45 other relief.

NOTE: The purpose of this bill is to require that all health care workers receive an influenza vaccination by October 1 every year.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.