

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4878

BY DELEGATES HORNBUCKLE, LAVENDER-BOWE, ROWE

AND ROBINSON

[Introduced February 11, 2020; 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 article,
 2 designated §16-3E-1, §16-3E-2, §16-3E-3, §16-3E-4, and §16-3E-5, all relating to
 3 creating a policy on vaccine preventable diseases; requiring health care facilities to
 4 develop and implement a policy to protect its patients from vaccine preventable diseases;
 5 setting forth what a policy must contain; providing exceptions; establishing a disaster
 6 exemption; providing for penalties; defining terms; and requiring rule-making.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3E. POLICY ON VACCINE PREVENTABLE DISEASES.

§16-3E-1. Definitions.

1 When used in this article:

2 “Covered individual” means:

3 (A) An employee of the health care facility;

4 (B) An individual providing direct patient care under a contract with a health care facility;

5 or

6 (C) An individual to whom a health care facility has granted privileges to provide direct
 7 patient care.

8 “Health care facility” means:

9 (A) A publicly or privately-owned facility, agency or entity that offers or provides health
 10 services, whether a for-profit or nonprofit entity and whether or not licensed, or required to be
 11 licensed, in whole or in part; or

12 (B) A hospital licensed pursuant to the provisions of §16-5B-1 et seq. of this code, and
 13 any acute care facility operated by the state government, that primarily provides inpatient
 14 diagnostic, treatment or rehabilitative services to injured, disabled or sick persons under the
 15 supervision of physicians.

16 “Vaccine preventable diseases” means the diseases included in the most current
 17 recommendations of the Advisory Committee on Immunization Practices of the Centers for

18 Disease Control and Prevention.

§16-3E-2. Vaccine preventable diseases policy required.

1 (a) Each health care facility shall develop and implement a policy to protect its patients
2 from vaccine preventable diseases.

3 (b) The policy shall:

4 (1) Require covered individuals to receive vaccines for the vaccine preventable diseases
5 specified by the facility based on the level of risk the individual presents to patients by the
6 individual's routine and direct exposure to patients;

7 (2) Specify the vaccines a covered individual is required to receive based on the level of
8 risk the individual presents to patients by the individual's routine and direct exposure to patients;

9 (3) Include procedures for verifying whether a covered individual has complied with the
10 policy;

11 (4) Include procedures for a covered individual to be exempt from the required vaccines
12 for the medical conditions identified as contraindications or precautions by the Centers for
13 Disease Control and Prevention;

14 (5) For a covered individual who is exempt from the required vaccines, include procedures
15 the individual must follow to protect facility patients from exposure to disease, such as the use of
16 protective medical equipment, such as gloves and masks, based on the level of risk the individual
17 presents to patients by the individual's routine and direct exposure to patients;

18 (6) Prohibit discrimination or retaliatory action against a covered individual who is exempt
19 from the required vaccines for the medical conditions identified as contraindications or
20 precautions by the Centers for Disease Control and Prevention, except that required use of
21 protective medical equipment, such as gloves and masks, may not be considered retaliatory
22 action for purposes of this subdivision;

23 (7) Require the health care facility to maintain a written or electronic record of each
24 covered individual's compliance with or exemption from the policy; and

25 (8) Include disciplinary actions the health care facility is authorized to take against a
26 covered individual who fails to comply with the policy.

27 (c) The policy may include procedures for a covered individual to be exempt from the
28 required vaccines based on reasons of conscience, including a religious belief.

§16-3E-3. Disaster exemption.

1 (a) In this section, “public health disaster” means:

2 (1) A declaration by the governor of a state of disaster; and

3 (2) A determination by the Director of Health that there exists an immediate threat from a
4 communicable disease that:

5 (A) Poses a high risk of death or serious long-term disability to a large number of people;
6 and

7 (B) Creates a substantial risk of public exposure because of the disease’s high level of
8 contagion or the method by which the disease is transmitted

9 (b) During a public health disaster, a health care facility may prohibit a covered individual
10 who is exempt from the vaccines required in the policy developed by the facility under §16-3E-2
11 of this code from having contact with facility patients.

§16-3E-4. Penalties.

1 A health care facility that violates this chapter is subject to an administrative or civil penalty
2 in the same manner, and subject to the same procedures, as if the facility had violated a provision
3 of this code that specifically governs the facility.

§16-3E-5. Rule-making.

1 The Director of Health shall propose rules for legislative approval in accordance with
2 §29A-3-1 et seq. of this code to implement this section.

NOTE: The purpose of this bill is to create a policy on vaccine preventable diseases. The bill requires health care facilities to develop and implement a policy to protect its patients from vaccine preventable diseases. The bill sets forth what a policy must contain. The bill

provides exceptions. The bill establishes a disaster exemption. The bill provides for penalties. The bill defines terms. The bill requires rule-making.

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