

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2046

By Delegates Steele and Ridenour

[Introduced January 11, 2023; Referred to the
Committee on Health and Human Resources then the
Judiciary then Finance]

1 A BILL to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended, relating to
2 permitting a licensed physician to grant a medical exemption from the required
3 immunizations for a child to enter a school or a state-regulated child care center; removing
4 the Commissioner of the Bureau for Public Health from the responsibility of granting
5 immunization certificates and medical exemptions from immunization; providing for written
6 statements of medical exemption; and providing for the statewide acceptance of the
7 medical exemption.

Be it enacted by the Legislature of West Virginia:

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

**§16-3-4. Compulsory immunization of school children; information disseminated;
offenses; penalties.**

1 (a) "Medical exemption" means a statement by a licensed physician that immunization for
2 a child is contraindicated or there exists a specific precaution to a particular vaccine.

3 (b) "Physician" means a doctor of allopathic or osteopathic medicine who has examined
4 the child and who is properly licensed and in good standing in any state in the United States.

5 ~~(a)~~ (c) Whenever a resident birth occurs, the commissioner shall promptly provide parents
6 of the newborn child with information on immunizations mandated by this state or required for
7 admission to a public, private and parochial school in this state or a state-regulated child care
8 center. The commissioner shall also promptly provide information to parents of the newborn child
9 about the process for obtaining a medical exemption.

10 ~~(b)~~ (d) Except as hereinafter provided, a child entering school or a state-regulated child
11 care center in this state must be immunized against chickenpox, hepatitis-b, measles, meningitis,
12 mumps, diphtheria, polio, rubella, tetanus and whooping cough.

13 ~~(e)~~ (e) No child or person may be admitted or received in any of the schools of the state or a

14 state-regulated child care center until he or she has been immunized against chickenpox,
15 hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough
16 or produces a ~~certificate from the commissioner~~ medical exemption statement granting the child or
17 person an a medical exemption from the compulsory immunization requirements of this section.

18 ~~(d) Any school or state-regulated child care center personnel having information~~
19 ~~concerning any person who attempts to be enrolled in a school or state-regulated child care center~~
20 ~~without having been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps,~~
21 ~~diphtheria, polio, rubella, tetanus and whooping cough shall report the names of all such persons~~
22 ~~to the commissioner~~

23 ~~(e) (f) Persons~~ A person may be provisionally enrolled under minimum criteria established
24 by the commissioner so that the person's immunization may be completed while missing a
25 minimum amount of school. No person shall be allowed to enter school without at least one dose
26 of ~~each required vaccine~~ measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and
27 whooping cough vaccines with the exception of those who have a statement of medical exemption
28 from their physician.

29 ~~(f) (g)~~ County health departments shall furnish the biologicals for this immunization for
30 children of parents or guardians who attest that they cannot afford or otherwise access vaccines
31 elsewhere.

32 ~~(g) (h)~~ Health officers and physicians who provide vaccinations must present the person
33 vaccinated with a ~~certificate~~ statement of vaccination free of charge showing that they have been
34 immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio,
35 rubella, tetanus and whooping cough, or he or she may give the ~~certificate~~ statement to any
36 person or child whom he or she knows to have been immunized against chickenpox, hepatitis-b,
37 measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough.

38 ~~(h) (i) The commissioner is authorized to~~ A physician may grant, or renew, condition, deny,
39 ~~suspend or revoke~~ medical exemptions to the compulsory immunization requirements of this

40 section, ~~on a statewide basis~~, upon sufficient medical evidence that immunization is
41 contraindicated or there exists a specific precaution to a particular vaccine. The physician shall
42 provide the parent or guardian of the child with a statement of medical exemption stating that a
43 medical exemption has been granted. A parent or guardian shall submit the statement to the
44 school or state licensed child care facility. The exemption is valid throughout the state. Upon
45 receipt of the statement, the school or state-regulated child care center shall permit the child to
46 enter.

47 ~~(1) A request for an exemption to the compulsory immunization requirements of this~~
48 ~~section must be accompanied by the certification of a licensed physician stating that the physical~~
49 ~~condition of the child is such that immunization is contraindicated or there exists a specific~~
50 ~~precaution to a particular vaccine.~~

51 ~~(2) The commissioner is authorized to appoint and employ an Immunization Officer to~~
52 ~~make determinations on request for an exemption to the compulsory immunization requirements~~
53 ~~of this section, on a statewide basis, and delegate to the Immunization Officer the authority~~
54 ~~granted to the commissioner by this subsection.~~

55 ~~(3) A person appointed and employed as the Immunization Officer must be a physician~~
56 ~~licensed under the laws of this state to practice medicine.~~

57 ~~(4) The Immunization Officer's decision on a request for an exemption to the compulsory~~
58 ~~immunization requirements of this section may be appealed to the State Health Officer.~~

59 ~~(5) The final determination of the State Health Officer is subject to a right of appeal~~
60 ~~pursuant to the provisions of article five, chapter twenty-nine a of this code.~~

61 ~~(i) A physician who provides any person with a false certificate of immunization against~~
62 ~~chickenpox, hepatitis b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and~~
63 ~~whooping cough is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25~~
64 ~~nor more than \$100~~

NOTE: The purpose of this bill is to permit a physician, as 46 other states allow, to grant a child a medical exemption from the required immunizations for entering a school or a state-regulated child care center. The position of Immunization Officer is eliminated.

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