
WEST VIRGINIA CODE CHAPTER 16
ARTICLE 3

WV Legislature

§16-3-1. State Director of Health Authority to quarantine and to enforce regulations; State Board of Health Authority to issue regulations to control infectious or contagious diseases.

The state director of health is empowered to establish and strictly maintain quarantine at such places as he may deem proper and forbid and prevent the assembling of the people in any place, when the state director of health or any county or municipal health officer deems that the public health and safety so demand, and the state board of health may adopt rules and regulations to obstruct and prevent the introduction or spread of smallpox or other communicable or infectious diseases into or within the State, and the state director of health shall have the power to enforce these regulations by detention and arrest, if necessary. The state director of health shall have power to enter into any town, city, factory, railroad train, steamboat or other place whatsoever, and enter upon and inspect private property for the purpose of investigating the sanitary and hygienic conditions and the presence of cases of infectious diseases, and may, at his discretion, take charge of any epidemic or endemic conditions, and enforce such regulations as the state board of health may prescribe. All expenses incurred in controlling any endemic or epidemic conditions shall be paid by the county or municipality in which such epidemic occurs.

§16-3-2. Powers of county and municipal boards of health to establish quarantine; penalty for violation.

The county board of health of any county may declare quarantine therein, or in any particular district or place therein, whenever in their judgment it is necessary to prevent the spread of any communicable or infectious disease prevalent therein, or to prevent the introduction of any communicable or infectious disease prevailing in any other state, county or place, and of any and all persons and things likely to spread such infection. As soon as such quarantine is established such board shall, in writing, inform the director of health thereof, the duty of whom it shall be to ascertain, as soon as practicable, the necessity therefor, if any exists, and if the state director of health finds that no such necessity exists, the same shall, by the said director, be declared raised. The said county board of health shall have power and authority to enforce such quarantine until the same is raised as aforesaid, or by themselves, and may confine any such infected person, or any person liable to spread such infection, to the house or premises in which he resides, or if he has no residence in the county, at a place to be provided by them for the purpose; and if it shall become necessary to do so, they shall summon sufficient guard for the enforcement of their orders in the premises. Every person who shall fail or refuse to comply with any order made by such board under this section, and every person summoned as such guard who shall, without a lawful excuse, fail or refuse to obey the orders and directions of such board in enforcing said quarantine, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than \$200. In cases of emergency or actual necessity, and when the county commission or corporate authorities are from any cause unable to meet or to provide for the emergency or the necessity of the case, all actual expenditures necessary for local and county quarantine, as provided for in this section, shall be certified by the county board of health to the county commission, and the whole, or as much thereof as the said commission may deem right and proper, shall be paid out of the county treasury. The board of health of any city, town or village shall have, within the municipality, the same powers and perform the same duties herein conferred upon and required of the county board of health in their county. So far as applicable the provisions of this section shall apply to any quarantine established and maintained by the state director of health pursuant to section one of this article.

§16-3-3. Communicable diseases on vessels or trains; offenses; penalty.

The state department of health, its agents and employees, and the local boards of health, in the absence of the state department, its agents and employees, when they have reason to believe that any steamboat or other watercraft navigating the Ohio river or its tributaries in this state, or any other of the waters of the state, or bordering thereon, is infected with any communicable disease, may prevent the landing of such boat or craft at any point in this state. They may also, if they have reason to believe that any railroad train, coach or other vehicle passing on or along any railroad in this state, contains any person having a communicable disease or any thing infected with contagious matter, detain such train, coach or vehicle at any station or point on such railroad where it can be done with safety, for a time sufficient to examine the same, and if found to be so infected, for a time sufficient to disinfect the same; and if the conductor or person in charge of such train, coach or vehicle, shall willfully fail or refuse to stop the said train, coach or vehicle for the time aforesaid, he shall be guilty of a misdemeanor and, punished as prescribed in section two of this article.

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

(a) Whenever a resident birth occurs, the commissioner shall promptly provide parents of the newborn child with information on immunizations mandated by this state or required for admission to a public, private and parochial school in this state or a state-regulated child care center.

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

(c) No child or person may be admitted or received in any of the schools of the state or a state-regulated child care center until he or she has been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio,, rubella, tetanus and whooping cough or produces a certificate from the commissioner granting the child or person an exemption from the compulsory immunization requirements of this section.

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

(e) Persons may be provisionally enrolled under minimum criteria established by the commissioner so that the person's immunization may be completed while missing a minimum amount of school. No person shall be allowed to enter school without at least one dose of each required vaccine.

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

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

(h) The commissioner is authorized to grant, renew, condition, deny, suspend or revoke exemptions to the compulsory immunization requirements of this section, on a statewide basis, upon sufficient medical evidence that immunization is contraindicated or there exists a specific precaution to a particular vaccine.

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

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

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

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

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

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

§16-3-4a. Influenza Immunizations.

(a) A hospital licensed pursuant to the provisions of article five-b of this chapter shall offer to an inpatient who is sixty-five years of age or older an influenza immunization prior to discharge from October 1 of every year and continuing through March 1 of the following year.

(b) The immunizations may not be offered in cases where the immunization is contraindicated.

(c) The requirements of this section are subject to the availability for sufficient influenza immunizations.

(d) Nothing in this section may be construed to require an influenza immunization as a condition of receiving any type of service or as a condition of discharge.

§16-3-4b. Required exemptions to compulsory immunization against COVID-19 as a condition of employment; effective date.

(a) A covered employer, as defined in this section, that requires as a condition of continued employment or as a condition of hiring an individual for employment, that such person receive a COVID-19 immunization or present documentation of immunization from COVID-19, shall exempt current or prospective employees from such immunization requirements upon the presentation of one of the following certifications:

(1) A certification presented to the covered employer, signed by a licensed physician or a licensed advanced practice registered nurse who has conducted an in-person examination of the employee or prospective employee, stating that the physical condition of the current or prospective employee is such that a COVID-19 immunization is contraindicated; there exists a specific precaution to the mandated vaccine; or the current or prospective employee has developed COVID-19 antibodies from being exposed to the COVID-19 virus, or suffered from and has recovered from the COVID-19 virus; or

(2) A notarized certification executed by the employee or prospective employee that is presented to the covered employer by the current or prospective employee that he or she has sincerely held religious beliefs that prevent the current or prospective employee from taking the COVID-19 immunization.

(b) A covered employer may not be permitted to penalize or discriminate against current or prospective employees for exercising exemption rights provided in this section by practices including, but not limited to, benefits decisions, hiring, firing, or withholding bonuses, pay raises, or promotions.

(c) As used in this section, the following terms shall have the following meaning:

“Covered employer” means:

(1) The State of West Virginia, including any department, division, agency, bureau, board, commission, office, or authority thereof, or any political subdivision of the State of West Virginia including, but not limited to, any county, municipality, or school district;

(2) A business entity, including without limitation any individual, firm, partnership, joint venture, association, corporation, company, estate, trust, business trust, receiver, syndicate, club, society, or other group or combination acting as a unit, engaged in any business activity in this state, including for-profit or not-for-profit activity, that has employees;

(3) “Covered employer” does not include any Medicare or Medicaid-certified facilities which are subject to enforceable federal regulations contrary to the requirements of this section;

(4) “COVID-19” means the same as that term is defined in §55-19-3 of this code; or

(5) “Immunization” means any federally authorized immunization for COVID-19, whether

fully approved or approved under an emergency use authorization.

(d) The provisions of this section are inapplicable to employees of covered employers who are required to work in Medicare or Medicaid-certified facilities which are subject to enforceable federal regulations contrary to the requirements of this section.

(e) Any person or entity harmed by a violation of this section may seek injunctive relief in a court of competent jurisdiction.

(f) The provisions of this section shall become effective immediately.

(g) Pursuant to §2-2-10 of this code, if any provision of this section or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the section, and to this end the provisions of this section are declared to be severable.

§16-3-4c. Prohibiting proof of COVID-19 vaccination.

(a) As used in this section:

- (1) "COVID-19" has the same definition as provided in §55-19-3 of this code;
- (2) "Hospital" has the same definition as provided in §16-5B-1 of this code;
- (3) "Immunization" has the same definition as provided in §55-19-3 of this code;
- (4) "Proof of vaccination" means physical documentation or digital storage of protected health information related to an individual's immunization or vaccination against COVID-19; and
- (5) "State institution of higher education" has the same meaning as provided in §18B-1-2 of this code.

(b) A state or local governmental official, entity, department, or agency may not require proof of vaccination as a condition of entering the premises of a state or local government entity, or utilizing services provided by a state or local government entity: *Provided*, That if any federal law or regulation requires proof of vaccination as a condition of entering the premises, the provisions of this subsection shall not apply: *Provided, however*, That this prohibition does not apply to any local government-owned facility that is leased to a private entity where the local governmental unit primarily serves as a property owner receiving rental payments.

(c) A hospital may not require proof of vaccination as a condition of entering the premises: *Provided*, That if any federal law or regulation requires proof of vaccination as a condition of entering the premises, the provisions of this subsection shall not apply.

(d) A state institution of higher education may not require proof of vaccination as a condition of enrollment or for entering the premises: *Provided*, That if any federal law or regulation requires proof of vaccination as a condition of entering the premises, or if the academic requirements of a particular program cannot be met without vaccination and proof thereof, the provisions of this subsection shall not apply.

§16-3-5. Distribution of free vaccine preventives of disease.

(a) Declaration of legislative findings and purpose. -- The Legislature finds and declares that early immunization for preventable diseases represents one of the most cost-effective means of disease prevention. The savings which can be realized from immunization, compared to the cost of health care necessary to treat the illness and lost productivity, are substantial. Immunization of children at an early age serves as a preventive measure both in time and money and is essential to maintain our children's health and well-being. The costs of childhood immunizations should not be allowed to preclude the benefits available from a comprehensive, medically supervised child immunization service.

(b) The Commissioner of the Bureau for Public Health shall acquire vaccine for the prevention of polio, measles, meningitis, mumps, rubella, chickenpox, diphtheria, pertussis, tetanus, hepatitis-b, haemophilus influenzae-b and other vaccine preventable diseases as considered necessary or required by law and shall distribute the same, free of charge, in quantities he or she considers necessary, to public and private providers, to be used by them for the benefit of citizens to check contagions and control epidemics.

(c) The Commissioner of the Bureau for Public Health, through the immunization program, has the responsibility to ensure the distribution, free of charge, of federally supplied vaccines to public and private providers to be used to check contagions and control epidemics: Provided, That the public and private providers may not make a charge for the vaccine itself when administering it to a patient. The Commissioner of the Bureau for Public Health, through the immunization program, shall keep an accurate record of any vaccine delivered as provided in this section.

(d) The commissioner is charged with establishing an Immunization Advisory Committee. The advisory committee is to make recommendations on the distribution of vaccines acquired pursuant to this section, advise the secretary on the changing needs and opportunities for immunization from known diseases for all persons across their life span and track immunization compliance in accordance with federal and state laws. Members of the Immunization Advisory Committee shall be designated and appointed by the commissioner no later than July 1, 2015. The advisory committee shall be comprised of representatives from the following groups: Public health nursing, public health officers, primary health care providers, pediatricians, family practice physicians, health care administrators, pharmacists, the Commissioner of the Bureau for Medical Services, or his or her designee, the health insurance industry, the Director of the Public Employees Insurance Agency, or his or her designee, the self-insured industry and a minimum of three consumers. The state epidemiologist serves as an advisor to the committee. The commissioner, or his or her designee, serves as the chair of the advisory committee. Members of the advisory committee serve four-year terms.

(e) An advisory committee member may not participate in a matter involving specific parties that will have a direct and predicable effect on their financial interest. An effect will not be direct in instances where the chain of causation is attenuated or is contingent upon the

occurrence of events that are speculative.

(f) All health insurance policies and prepaid care policies issued in this state which provide coverage for the children of the insured shall provide coverage for child immunization services to include the cost of the vaccine, if incurred by the health care provider, and all costs of administration from birth through age eighteen years. These services are exempt from any deductible, per-visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not exempt other health care services provided at the time of immunization from any deductible or copayment provisions.

(g) Attending physicians, midwives, nurse practitioners, hospitals, birthing centers, clinics and other appropriate health care providers shall provide parents of newborns and preschool age children with information on the following immunizations: Diphtheria, polio, mumps, meningitis, measles, rubella, tetanus, hepatitis-b, haemophilus influenzae-b, chickenpox and whooping cough. This information should include the availability of free immunization services for children.

§16-3-6. Nuisances affecting public health.

The state director of health or any county or municipal health officer shall inquire into and investigate all nuisances affecting the public health within his jurisdiction; and the said director or any such officer or the county commission of any county or any municipality is authorized and empowered to apply to the circuit court of the county in which any such nuisance exists, or to the judge thereof in vacation, for an injunction forthwith to restrain, prevent or abate such nuisance.

§16-3-7. Inflammation of the eyes of the newborn.

[Repealed.]

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§16-3-8. Inflammation of the eyes of the newborn – Duty of those assisting at childbirth to report cases; treatment.

[Repealed.]

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§16-3-9. Inflammation of the eyes of the newborn – Duties of local health officer.

[Repealed.]

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§16-3-10. Inflammation of eyes of newborn – Use of an appropriate medication as prophylactic.

[Repealed.]

WV Legislature

§16-3-11. Same — Duty of clerk of county commission.

[Repealed.]

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§16-3-12. Same — Duties of the state director of health; duties of board of health.

[Repealed.]

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§16-3-13. Same — Offenses; penalties.

[Repealed.]

WV Legislature