

HOUSE BILL NO. 266

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES EASTMAN, Kurka

Introduced: 1/18/22

Referred: Health and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to vaccines and vaccinations; relating to pharmacists and other health**
2 **care providers; relating to health care insurers; relating to schools; relating to the Board**
3 **of Pharmacy; relating to the Department of Education and Early Development; relating**
4 **to the Department of Health and Social Services; relating to unfair trade practices; and**
5 **providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
8 to read:

9 SHORT TITLE. This Act may be known as the Vaccine Consumer Protection Act of
10 2022.

11 *** Sec. 2.** AS 08.80.030(b) is amended to read:

12 (b) In order to fulfill its responsibilities, the board has the powers necessary
13 for implementation and enforcement of this chapter, including the power to

1 (1) elect a president and secretary from its membership and adopt rules
2 for the conduct of its business;

3 (2) license by examination or by license transfer the applicants who are
4 qualified to engage in the practice of pharmacy;

5 (3) assist the department in inspections and investigations for
6 violations of this chapter, or of any other state or federal statute relating to the practice
7 of pharmacy;

8 (4) adopt regulations to carry out the purposes of this chapter;

9 (5) establish and enforce compliance with professional standards and
10 rules of conduct for pharmacists engaged in the practice of pharmacy;

11 (6) determine standards for recognition and approval of degree
12 programs of schools and colleges of pharmacy whose graduates shall be eligible for
13 licensure in this state, including the specification and enforcement of requirements for
14 practical training, including internships;

15 (7) establish for pharmacists and pharmacies minimum specifications
16 for the physical facilities, technical equipment, personnel, and procedures for the
17 storage, compounding, and dispensing of drugs or related devices, and for the
18 monitoring of drug therapy;

19 (8) enforce the provisions of this chapter relating to the conduct or
20 competence of pharmacists practicing in the state, and the suspension, revocation, or
21 restriction of licenses to engage in the practice of pharmacy;

22 (9) license and regulate the training, qualifications, and employment of
23 pharmacy interns and pharmacy technicians;

24 (10) issue licenses to persons engaged in the manufacture and
25 distribution of drugs and related devices;

26 (11) establish and maintain a controlled substance prescription
27 database as provided in AS 17.30.200;

28 (12) establish standards for the independent administration by a
29 pharmacist of vaccines and related emergency medications under AS 08.80.168,
30 including the completion of an immunization training program approved by the board
31 **and compliance with AS 18.15.500 - 18.15.600;**

(13) establish standards for the independent dispensing by a pharmacist of an opioid overdose drug under AS 17.20.085, including the completion of an opioid overdose training program approved by the board;

(14) require that a licensed pharmacist register with the controlled substance prescription database under AS 17.30.200(n);

(15) establish the qualifications and duties of the executive administrator and delegate authority to the executive administrator that is necessary to conduct board business;

(16) license and inspect the facilities of wholesale drug distributors, third-party logistics providers, and outsourcing facilities located outside the state under AS 08.80.159.

* **Sec. 3.** AS 08.80.480 is amended by adding a new paragraph to read:

(40) "vaccine" has the meaning given in AS 18.15.600.

* **Sec. 4.** AS 09.65 is amended by adding a new section to read:

Sec. 09.65.360. Liability for disclosure of vaccination status. (a) A person who learns whether an individual has been vaccinated against novel coronavirus disease (COVID-19) and discloses that information to a third party is liable to the individual for damages caused by the loss of privacy.

(b) A person who, in violation of AS 11.41.530, coerces an individual to disclose whether the individual has been vaccinated against COVID-19 is liable for damages.

* **Sec. 5.** AS 14.07.020(a) is amended to read:

(a) The department shall

(1) exercise general supervision over the public schools of the state except the University of Alaska;

(2) study the conditions and needs of the public schools of the state, adopt or recommend plans, administer and evaluate grants to improve school performance awarded under AS 14.03.125, and adopt regulations for the improvement of the public schools; the department may consult with the University of Alaska to develop secondary education requirements to improve student achievement in college preparatory courses;

1 (3) provide advisory and consultative services to all public school
2 governing bodies and personnel;

3 (4) prescribe by regulation a minimum course of study for the public
4 schools; the regulations must provide that, if a course in American Sign Language is
5 given, the course shall be given credit as a course in a foreign language;

6 (5) establish, in coordination with the Department of Health and Social
7 Services, a program for the continuing education of children who are held in juvenile
8 detention facilities or juvenile treatment facilities, as those terms are defined in
9 AS 47.12.990, in the state during the period of detention or treatment;

10 (6) accredit those public schools that meet accreditation standards
11 prescribed by regulation by the department; these regulations shall be adopted by the
12 department and presented to the legislature during the first 10 days of any regular
13 session, and become effective 45 days after presentation or at the end of the session,
14 whichever is earlier, unless disapproved by a resolution concurred in by a majority of
15 the members of each house;

16 (7) prescribe by regulation, after consultation with the state fire
17 marshal and the state sanitarian, standards that will ensure healthful and safe
18 conditions in the public and private schools of the state, including a requirement of
19 physical examinations and, subject to AS 18.15.560 and 18.15.590(b),
20 immunizations in pre-elementary schools; the standards for private schools may not be
21 more stringent than those for public schools;

22 (8) exercise general supervision over pre-elementary schools that
23 receive direct state or federal funding;

24 (9) exercise general supervision over elementary and secondary
25 correspondence study programs offered by municipal school districts or regional
26 educational attendance areas; the department may also offer and make available to any
27 Alaskan through a centralized office a correspondence study program;

28 (10) accredit private schools that request accreditation and that meet
29 accreditation standards prescribed by regulation by the department; nothing in this
30 paragraph authorizes the department to require religious or other private schools to be
31 licensed;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction or major maintenance project; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, projected energy consumption and costs, and final contract documents;

(12) provide educational opportunities in the areas of vocational education and training, and basic education to individuals over 16 years of age who are no longer attending school; the department may consult with businesses and labor unions to develop a program to prepare students for apprenticeships or internships that will lead to employment opportunities;

(13) administer the grants awarded under AS 14.11;

(14) establish, in coordination with the Department of Public Safety, a school bus driver training course;

(15) require the reporting of information relating to school disciplinary and safety programs under AS 14.33.120 and of incidents of disruptive or violent behavior;

(16) establish by regulation criteria, based on low student performance, under which the department may intervene in a school district to improve instructional practices, as described in AS 14.07.030(a)(14) or (15); the regulations must include

(A) a notice provision that alerts the district to the deficiencies and the instructional practice changes proposed by the department;

(B) an end date for departmental intervention, as described in AS 14.07.030(a)(14)(A) and (B) and (15), after the district demonstrates three consecutive years of improvement consisting of not less than two percent increases in student proficiency on standards-based assessments in language arts and mathematics, as provided in AS 14.03.123(f)(1)(A); and

(C) a process for districts to petition the department for continuing or discontinuing the department's intervention;

(17) notify the legislative committees having jurisdiction over

education before intervening in a school district under AS 14.07.030(a)(14) or redirecting public school funding under AS 14.07.030(a)(15).

* **Sec. 6.** AS 14.30.125 is amended to read:

Sec. 14.30.125. Immunization. If, in the judgment of the commissioner of health and social services, it is necessary for the welfare of the children or the general public in an area, the governing body of the school district may [SHALL] require the children attending school in that area to be immunized, subject to AS 18.15.560 and 18.15.590(b), against the diseases the commissioner of health and social services may specify.

* **Sec. 7.** AS 18.09.990(11) is repealed and reenacted to read:

(11) "vaccine" has the meaning given in AS 18.15.600.

* **Sec. 8.** AS 18.15.360 is amended by adding a new subsection to read:

(e) The department shall adopt regulations creating a screening checklist of contraindications for vaccines for patients who are under 18 years of age. The checklist must include questions concerning the patient's current health status, allergies, previous vaccinations, serious adverse reactions to vaccines, long-term health issues, family history of seizures and brain or nervous disorders, family members who have experienced an adverse reaction to a vaccine, and immune system problems or family history of immune system problems. In this subsection, "vaccination" and "vaccine" have the meanings given in AS 18.15.600.

* **Sec. 9.** AS 18.15 is amended by adding new sections to read:

Article 7A. Vaccines and Vaccinations.

Sec. 18.15.500. Information on vaccine. (a) A health care provider or health care facility that recommends or administers a vaccine to a patient shall, before administering the vaccine, provide to the patient or, if the patient is a minor, to the patient's parent or guardian information that identifies the risks and benefits of the vaccine based on the patient's health record and the right of the patient or, if the patient is a minor, the patient's parent or guardian to accept or refuse the vaccine.

(b) The information provided under (a) of this section must be in writing, must be signed by the patient or, if the patient is a minor, the patient's parent or guardian and must include

1 (1) the name and manufacturer of the vaccine;
 2 (2) the ingredients of the vaccine, including adjuvants and excipients;
 3 in this paragraph,

4 (A) "adjuvant" means a substance that enhances the
 5 pharmacological effect of a drug or increases the ability of an antigen to
 6 stimulate the immune system;

7 (B) "excipient" means an ingredient that is intentionally added
 8 to a drug for a purpose other than the therapeutic or diagnostic effect at the
 9 intended dose;

10 (3) the Internet website of the manufacturer for access to the vaccine
 11 manufacturer's product insert for disclosed contraindications and adverse events and
 12 any related information;

13 (4) the Internet website of the United States Health Resources and
 14 Services Administration for access to the vaccine injury compensation program and
 15 the vaccine injury table and information regarding reports of adverse effects and
 16 recalls of vaccines;

17 (5) the Internet website of the United States Food and Drug
 18 Administration for access to vaccine recall information;

19 (6) information regarding patient exemption rights, including the right
 20 to an exemption from a vaccination for a medical, personal, religious, or other reason;

21 (7) information regarding rights concerning vaccination data collection
 22 by the department;

23 (8) information regarding limitations on liability for a person who
 24 administers a vaccine;

25 (9) information regarding incentives received by the health care
 26 provider or health care facility related to vaccination services;

27 (10) information regarding the risks of contracting the disease or
 28 illness for which the vaccine is given;

29 (11) the name, manufacturer, and ingredients of any vaccine scheduled
 30 to be administered to the patient at a future appointment; and

31 (12) a notification of any potential right of action the patient may have

1 against a vaccine manufacturer for an injury resulting from the vaccine that was not
2 specified in the manufacturer's product insert.

3 (c) If the department publishes an advertisement that promotes a vaccine, the
4 department shall list potential adverse reactions associated with the vaccine and
5 identify persons for whom the Centers for Disease Control and Prevention, United
6 States Department of Health and Human Services, recommends against receiving the
7 vaccine.

8 **Sec. 18.15.510. Vaccine contraindication checklist.** A health care provider or
9 health care facility shall, before administering a vaccine to a patient who is a minor,
10 ensure that the patient's parent or guardian has completed the vaccine contraindication
11 checklist created by the department under AS 18.15.360(e).

12 **Sec. 18.15.520. Adverse events.** A health care provider or health care facility
13 that observes a patient experience an adverse event as a result of receiving a vaccine,
14 or that receives a report from a patient or a patient's family member that the patient has
15 recently experienced an adverse event as a result of receiving a vaccine, shall report
16 the adverse event in a timely manner to the Vaccine Adverse Event Reporting System
17 in the United States Department of Health and Human Services and record the adverse
18 event in the patient's medical record.

19 **Sec. 18.15.530. Prohibitions.** (a) A health care provider or health care facility
20 may not

21 (1) limit or deny health care services or benefits to a patient or harass,
22 coerce, scold, or threaten a patient or a patient's parent or guardian because the patient
23 or the patient's parent or guardian delays or declines a vaccination; or

24 (2) recommend or administer a vaccine to a patient who is a minor
25 without the consent of the patient's parent or guardian.

26 (b) A health care insurer may not deny insurance coverage or increase
27 insurance premiums for an individual who has delayed or declined a vaccination or
28 otherwise treat the individual differently than an individual who has received a
29 vaccination.

30 **Sec. 18.15.540. Prohibition on sale and advertising.** (a) A person, the state,
31 or a political subdivision of the state may not use the word "vaccine" to sell or

1 advertise for sale a product that

2 (1) is not a vaccine; or

3 (2) contains both a vaccine and a product that is not a vaccine.

4 (b) A person that knowingly violates this section is guilty of a class A
5 misdemeanor punishable as provided in AS 12.55. In this subsection, "knowingly" has
6 the meaning given in AS 11.81.900.

7 **Sec. 18.15.550. Civil penalty.** (a) A health care provider, health care facility,
8 or health care insurer that violates a provision of AS 18.15.500 - 18.15.530 is liable for
9 a civil penalty to be assessed after a hearing by the state agency or licensing or
10 regulatory board that has jurisdiction over the health care provider, health care facility,
11 or health care insurer of up to \$1,000 for the first violation and up to \$5,000 for each
12 subsequent violation.

13 (b) When determining the amount of a civil penalty to be assessed at a hearing
14 conducted under (a) of this section, the state agency or licensing or regulatory board
15 shall consider

16 (1) the scope and severity of the violation, including the number of
17 people affected by the violation;

18 (2) any action taken by the health care provider, health care facility, or
19 health care insurer to remedy the violation; and

20 (3) the number of previous violations by the health care provider,
21 health care facility, or health care insurer.

22 **Sec. 18.15.560. Long-term follow-up data.** (a) If a drug is recognized by the
23 United States Food and Drug Administration to be a gene therapy drug and the long-
24 term follow-up period for the drug has concluded, the department shall make data
25 from the long-term follow-up period available to each patient being prescribed the
26 drug, or to the parent or guardian of each patient being prescribed the drug who is a
27 minor, before the state or a political subdivision of the state may impose a legal
28 requirement related to the drug.

29 (b) If a drug is not recognized by the United States Food and Drug
30 Administration to be a gene therapy drug and has undergone or is undergoing a phase
31 IV clinical study, the department shall make data from the phase IV clinical study

1 available to each patient being prescribed the drug, or to the parent or guardian of each
 2 patient being prescribed the drug who is a minor, before the state or a political
 3 subdivision of the state may impose a legal requirement related to the drug. In this
 4 subsection, "phase IV clinical study" means a post-marketing study to delineate
 5 additional information about a drug's risks, benefits, and optimal use, including
 6 studying different doses or schedules of administration than were used in a prior
 7 clinical study, use of the drug in other patient populations or other stages of the
 8 disease, or use of the drug over a longer period of time.

9 **Sec. 18.15.570. Publication of summary.** The department shall publish on its
 10 Internet website a summary of the rights, duties, prohibitions, and penalties contained
 11 in AS 18.15.500 - 18.15.600.

12 **Sec. 18.15.580. Confidentiality of an individual's COVID-19 vaccine**
 13 **status.** The state or a political subdivision of the state may not divulge information to
 14 a third party that could be used to determine whether an individual has been
 15 vaccinated against novel coronavirus disease (COVID-19).

16 **Sec. 18.15.590. Prohibition against penalizing employees for not receiving**
 17 **a COVID-19 vaccine.** (a) An employer may not penalize or threaten to penalize an
 18 employee for not receiving a vaccine for novel coronavirus disease (COVID-19) or a
 19 booster dose of the COVID-19 vaccine.

20 (b) A school or school district may not penalize or threaten to penalize a
 21 student or prospective student for not receiving a COVID-19 vaccine or booster dose
 22 of the COVID-19 vaccine. In this subsection, "school" means a public or private pre-
 23 elementary, elementary, or secondary school, or a college or university.

24 (c) A business or nonprofit entity may not require an individual to be
 25 vaccinated against COVID-19 for the individual to access an area or service that is
 26 open to the public.

27 **Sec. 18.15.600. Definitions.** In AS 18.15.500 - 18.15.600,

28 (1) "health care facility" means an office or institution that provides
 29 care or treatment for physical, mental, emotional, dental, physiological, or
 30 psychological diseases or conditions;

31 (2) "health care insurer" has the meaning given in AS 21.54.500;

(3) "health care provider" means an individual licensed, certified, or otherwise authorized or permitted by law to provide health care services; in this paragraph, "health care services" means care, treatment, a service, or a procedure to maintain, diagnose, or otherwise affect an individual's physical or mental condition;

(4) "minor" means an individual under 18 years of age whose disabilities have not been removed under AS 09.55.590;

(5) "vaccination" means treatment with a vaccine;

(6) "vaccine" means a substance

(A) used to stimulate the production of antibodies and provide immunity against a disease;

(B) prepared from the causative agent of a disease or its products or from a synthetic substitute;

(C) treated to act as an antigen to a disease without inducing the disease; and

(D) that is designed to be administered to a patient only after the patient gives voluntary and knowing consent to receive the substance or, if the patient is a minor, only after a parent or guardian of the minor gives voluntary and knowing consent to administer the substance to the minor.

* **Sec. 10.** AS 45.50.471(b) is amended by adding a new paragraph to read:

(58) violating AS 18.15.540 (vaccine sale and advertisements).

* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) AS 09.65.360, added by sec. 4 of this Act, and AS 18.15.550, added by sec. 9 of this Act, apply to conduct occurring on or after the effective date of this Act.

(b) AS 18.15.540, added by sec. 9 of this Act, applies to offenses committed on or after the effective date of this Act.

* **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).