

HOUSE BILL NO. 3010

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - THIRD SPECIAL SESSION

BY REPRESENTATIVES EASTMAN, Kurka

Introduced: 9/12/21

Referred: Education, Labor and Commerce, Health and Social Services

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to vaccines and vaccinations; relating to liability for vaccines; relating**
2 **to the administration of vaccines; relating to the provision of information before**
3 **vaccinations; relating to the sale and advertisement of vaccines; relating to exemptions**
4 **from vaccinations; relating to pharmacists and other health care providers; relating to**
5 **health care insurers; relating to schools; relating to the Board of Pharmacy; relating to**
6 **the Department of Education and Early Development; relating to the Department of**
7 **Health and Social Services; relating to unfair trade practices; and providing for an**
8 **effective date."**

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

10 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12 SHORT TITLE. This Act may be known as the Vaccine Consumer Protection Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (12) establish standards for the independent administration by a

1 pharmacist of vaccines and related emergency medications under AS 08.80.168,
 2 including the completion of an immunization training program approved by the board
 3 **and compliance with AS 18.15.500 - 18.15.580;**

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

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

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

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

15 * **Sec. 3.** AS 09.65 is amended by adding a new section to read:

16 **Sec. 09.65.355. Liability of entities that encourage the administration of a**
 17 **COVID-19 vaccine.** (a) Notwithstanding AS 09.50.250 and AS 09.65.070, an
 18 employer who incentivizes, induces, or encourages an employee or prospective
 19 employee to accept administration of a vaccine for novel coronavirus disease
 20 (COVID-19), or penalizes or threatens to penalize an employee for not receiving a
 21 COVID-19 vaccine, is civilly liable for any damages incurred by the employee or
 22 prospective employee as the result of an adverse reaction to the COVID-19 vaccine, to
 23 the extent permitted by federal law.

24 (b) Notwithstanding AS 09.50.250 and AS 09.65.070, a school or school
 25 district that requires a student or prospective student to accept administration of a
 26 COVID-19 vaccine, or penalizes or threatens to penalize a student or prospective
 27 student for not receiving a COVID-19 vaccine, is civilly liable for any damages
 28 incurred by the student or prospective student as a result of an adverse reaction to the
 29 COVID-19 vaccine, to the extent permitted by federal law. In this subsection, "school"
 30 means a public or private pre-elementary, elementary, or secondary school, or a
 31 college or university.

1 (c) A business or nonprofit entity that requires an individual to be vaccinated
2 against COVID-19 for the individual to access an area or service that is open to the
3 public is civilly liable for any damages incurred by the individual as a result of an
4 adverse reaction to the COVID-19 vaccine if the individual obtains a COVID-19
5 vaccine to access an area or service of the business or nonprofit entity, to the extent
6 permitted by federal law.

7 * **Sec. 4.** AS 14.07.020(a) is amended to read:

8 (a) The department shall

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

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

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

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

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

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

1 (7) prescribe by regulation, after consultation with the state fire
2 marshal and the state sanitarian, standards that will ensure healthful and safe
3 conditions in the public and private schools of the state, including a requirement of
4 physical examinations and, subject to AS 09.65.355(b), immunizations in pre-
5 elementary schools; the standards for private schools may not be more stringent than
6 those for public schools;

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

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

13 (10) accredit private schools that request accreditation and that meet
14 accreditation standards prescribed by regulation by the department; nothing in this
15 paragraph authorizes the department to require religious or other private schools to be
16 licensed;

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

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

29 (13) administer the grants awarded under AS 14.11;

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

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

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

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

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

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

16 (17) notify the legislative committees having jurisdiction over
17 education before intervening in a school district under AS 14.07.030(a)(14) or
18 redirecting public school funding under AS 14.07.030(a)(15).

19 * **Sec. 5.** AS 14.30.125 is amended to read:

20 **Sec. 14.30.125. Immunization.** If in the judgment of the commissioner of
21 health and social services it is necessary for the welfare of the children or the general
22 public in an area, the governing body of the school district shall require the children
23 attending school in that area to be immunized, **subject to AS 09.65.355(b)**, against the
24 diseases the commissioner of health and social services may specify.

25 * **Sec. 6.** AS 18.15.360 is amended by adding a new subsection to read:

26 (e) The department shall adopt regulations creating a screening checklist of
27 contraindications for vaccines for patients who are under 18 years of age. The
28 checklist must include questions concerning the patient's current health status,
29 allergies, previous vaccinations, serious adverse reactions to vaccines, long-term
30 health issues, family history of seizures and brain or nervous disorders, family
31 members who have experienced an adverse reaction to a vaccine, and immune system

1 problems or family history of immune system problems. In this subsection,
2 "vaccination" and "vaccine" have the meanings given in AS 18.15.580.

3 * **Sec. 7.** AS 18.15 is amended by adding new sections to read:

4 **Article 7A. Vaccines and Vaccinations.**

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

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

14 (1) the name and manufacturer of the vaccine;

15 (2) the ingredients of the vaccine, including adjuvants and excipients;

16 in this paragraph,

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

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

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

26 (4) the Internet website of the United States Health Resources and
27 Services Administration for access to the vaccine injury compensation program and
28 the vaccine injury table and information regarding reports of adverse effects and
29 recalls of vaccines;

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

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

3 (7) information regarding rights concerning vaccination data collection
4 by the department;

5 (8) information regarding limitations on liability for a person who
6 administers a vaccine;

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

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

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

13 (12) a notification of the patient's right of action against a vaccine
14 manufacturer for an injury resulting from the vaccine that was not specified in the
15 manufacturer's product insert.

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

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

25 **Sec. 18.15.520. Adverse events.** A health care provider or health care facility
26 that observes a patient experience an adverse event as a result of receiving a vaccine,
27 or that receives a report from a patient or a patient's family member that the patient has
28 recently experienced an adverse event as a result of receiving a vaccine, shall report
29 the adverse event in a timely manner to the Vaccine Adverse Event Reporting System
30 in the United States Department of Health and Human Services and record the vaccine
31 adverse event in the patient's medical record.

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

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

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

8 (b) A health care insurer may not deny insurance coverage or increase
9 insurance premiums for an individual who has delayed or declined a vaccination or
10 otherwise treat the individual differently than an individual who has received a
11 vaccination.

12 **Sec. 18.15.540. Prohibition on sale and advertising.** (a) A person, the state,
13 or a political subdivision of the state may not use the word "vaccine" to sell or
14 advertise for sale a product that

15 (1) is not a vaccine;

16 (2) contains both a vaccine and a product that is not a vaccine; or

17 (3) is administered to a patient without the voluntary and knowing
18 consent of the patient.

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

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

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

31 (1) the scope and severity of the violation, including the number of

1 people affected by the violation;

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

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

6 **Sec. 18.15.560. Publication of summary.** The department shall publish on its
7 Internet website a summary of the rights, duties, prohibitions, and penalties contained
8 in AS 18.15.500 - 18.15.580.

9 **Sec. 18.15.570. Confidentiality of an individual's vaccine status.** The state
10 or a political subdivision of the state may not divulge information to a third party that
11 could be used to determine whether an individual has been vaccinated against novel
12 coronavirus disease (COVID-19).

13 **Sec. 18.15.580. Definitions.** In AS 18.15.500 - 18.15.580,

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

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

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

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

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

25 (6) "vaccine" means a substance

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

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

30 (C) treated to act as an antigen to a disease without inducing
31 the disease.

1 * **Sec. 8.** AS 23.30.055 is amended by adding a new subsection to read:

2 (b) Notwithstanding (a) of this section or AS 23.30.045, this chapter does not
3 apply to a claim arising under AS 09.65.355.

4 * **Sec. 9.** AS 45.50.471(b) is amended by adding a new paragraph to read:

5 (58) violating AS 18.15.540 (vaccine advertisements).

6 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).