

2022 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 3

BY REPRESENTATIVE BAGLEY

VACCINES/VACCINATION: Repeals administrative rules of the La. Department of Health adding COVID vaccines to the state immunization schedule and requiring schools to prohibit in-person attendance by certain unvaccinated students

1 A CONCURRENT RESOLUTION

2 To repeal the Louisiana Department of Health rule, LAC 51:II.701(A)(7) and (E), which  
3 adds COVID vaccines to the state immunization schedule, requires schools to  
4 prohibit in-person school attendance by certain students, and imposes on schools  
5 record-keeping requirements relating to student vaccination status; and to direct the  
6 office of the state register to print the notice of the repeal in the Louisiana  
7 Administrative Code.

8 WHEREAS, in September of 2021, the Louisiana Department of Health (LDH) gave  
9 notice in accordance with R.S. 49:953 of its intention to adopt an administrative rule to add  
10 COVID vaccines to the state immunization schedule, require schools to prohibit in-person  
11 school attendance by certain unvaccinated students, and impose upon schools record-keeping  
12 requirements related to compliance with the rule; and

13 WHEREAS, in its December 6, 2021, legislative oversight hearing concerning this  
14 proposed rule, the House Committee on Health and Welfare, by a vote of thirteen yeas and  
15 two nays, determined all of the following:

16 (1) That the proposed rule was not in conformity with the intent and scope of the  
17 enabling legislation purporting to authorize it.

18 (2) That the proposed rule was not in conformity with, and was contrary to,  
19 applicable provisions of law and of the Louisiana Constitution.

20 (3) That the proposed rule was not advisable.

21 (4) That the proposed rule was unacceptable; and

1           WHEREAS, in rejecting the proposed rule, the House Committee on Health and  
2 Welfare specifically found that by proposing to place upon schools requirements for  
3 enforcing the rule and for keeping records to document students' vaccination status, the  
4 proposed rule failed to conform with the intent and scope of state law providing for the  
5 powers and duties of LDH; and

6           WHEREAS, through witness testimony in its December 6, 2021, oversight hearing,  
7 the House Committee on Health and Welfare discovered that LDH did not consult with local  
8 school boards, the State Board of Elementary and Secondary Education, or the Louisiana  
9 Department of Education in preparing the proposed rule; and

10           WHEREAS, the legislature, the State Board of Elementary and Secondary Education,  
11 and the Louisiana Department of Education have the exclusive authority to set state policy  
12 on education and school administration; and

13           WHEREAS, though the LDH-proposed rule imposing a COVID vaccine mandate for  
14 schools constitutes an unlawful intrusion by the state health agency into policy on school  
15 administration, the governor forced the rule into effect by exercising the power conferred  
16 by R.S. 49:968(G) and disapproving the legislative action taken to reject the rule; and

17           WHEREAS, the provisions of R.S. 49:969 authorize the legislature, by concurrent  
18 resolution, to suspend, amend, or repeal any rule or regulation adopted by a state department,  
19 agency, board, or commission.

20           THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC  
21 51:II.701(A)(7) and (E) are hereby repealed in their entirety.

22           BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the  
23 office of the state register, the secretary of the Louisiana Department of Health, and the  
24 governor.

25           BE IT FURTHER RESOLVED that the office of the state register is hereby directed  
26 to have the notice of the repeal of LAC 51:II.701 printed and incorporated into the Louisiana  
27 Administrative Code.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HCR 3 Original

2022 Regular Session

Bagley

Repeals present administrative rule providing that a child having received the following types of vaccines is a requirement for his or her entry into school or day care:

Vaccines for severe acute respiratory syndrome – coronavirus 2 (SARS-CoV-2, the virus which causes Coronavirus Disease 2019, also known as COVID-19), or variants thereof, to the extent that such vaccines have been fully approved by the U.S. Food and Drug Administration for the individual's age.

Repeals present administrative rule requiring all of the following:

- (1) Each individual entering or attending any school within the state in-person shall present to such school satisfactory evidence of having received vaccination(s) in accordance with the dosing schedule, including any booster doses recommended by the U.S. Centers for Disease Control and Prevention, set forth in the applicable Vaccine Information Statement for severe acute respiratory syndrome – coronavirus 2 (SARS-CoV-2, the virus which causes COVID-19), or known variants thereof, to the extent that such vaccines have been fully approved by the U.S. Food and Drug Administration for the individual's age.
- (2) Each school in this state shall prohibit in-person attendance of any individual not vaccinated as required by present administrative rule unless the individual submits a written statement from a physician stating that such vaccination is contraindicated for medical reasons or the individual or his parent or guardian submits a written dissent.
- (3) Each school in this state shall maintain records showing compliance of each attending individual with the requirements of present administrative rule.

(Repeals LAC 51:II.701(A)(7) and (E))