

School Vaccination Requirements in the Commonwealth
Joint Commission on Health Care
Healthy Living / Health Services Subcommittee Meeting; August 3, 2016
By Stephen Weiss, Senior Health Policy Analyst

- HB 1342 (Delegates Filler-Corn and Stolle) was introduced during the 2016 General Assembly session. As written the bill amended § 32.1-46 by striking subsections D.1. and D.2. removing religious and medical exemptions and by adding “if the vaccine is medically contraindicated” as the only exemption. HB 1342 was stricken by the patron. Delegates Filler-Corn and Stolle requested that the JCHC study the requirements surrounding school vaccinations and make recommendations as to whether non-medical exemptions should be tightened for children attending public schools, private schools, child care centers, nursery schools and family day care home or developmental centers.
- The study was approved at the May 26, 2016 work plan meeting.
- The original study request asked the Commission to review ten issues related to the development, making, use and safety of vaccines. During the May 26, 2016 approval of the work plan an additional seventeen issues were added for review.
- The study noted that vaccination / immunization policies are a balancing act between public health, science, personal freedoms, social responsibility, and public policy.
- The study reviewed:
 - federal oversight of the development of vaccines and their approval for use by the public
 - the various federal agencies charged with insuring that vaccines are safe as they are being developed, manufactured and used
 - the ingredients of modern day vaccines and the controversies surrounding the ingredients as well as the controversies surrounding the use of vaccines in general
 - federal oversight of reported adverse reactions and events and the systems in place to address them
 - herd immunity and how it is determined by disease and vaccine
 - other state laws on school vaccination policies compared to Virginia’s laws
- Conclusions drawn from the study include:
 - Vaccines target diseases that spread through society, some more rapidly than others and some more deadly than others.

- The U.S. Supreme Court found that individual liberties and individual religious freedoms within the context of a society can be restrained for the good of the whole (Jacobson v. Massachusetts, 1905).
- The statistical significance of vaccine policies when weighed against the nature of the diseases the vaccines are intended to prevent support school vaccination policies.

Public comments were accepted by email or regular mail between August 3 and September 3, 2016. The Commission received over 800 emails, letters and faxes combined. When the duplicates were excluded 679 public comments were counted. Of the 679, 674 recommend take no action – policy option 1.

Support of policy option 1 included the following explanations from many of the commenters:

- Virginia’s exemption rates are low (1.1%), there have not been any outbreaks in Virginia and there is no compelling reason to change the law
- The science concerning vaccines is not settled, especially related to the various ingredients used to make vaccines and the impact those ingredients have on the body
- Physicians cannot predict who will have a negative reaction to a vaccine
- Vaccines are not 100% safe and can and have caused significant harm to children
- Parents should have the authority to decide what is best for their children
- The Virginia Constitution and laws guarantee Virginians personal liberties and freedoms, including freedom to choose their own religion and to worship freely without question or interference from the government

The Commission received 9 public comments from 5 individuals and organizations that supported changing the Commonwealth’s law related to school vaccination exemptions. Supporters of changing the law commented that not vaccinating children puts everyone at risk and the use of religious exemptions in Virginia has nothing to do with religion.

| | POLICY OPTIONS AND DESCRIPTION | Comments Received in Support | Support by Organizations |
|----|--|------------------------------|--|
| 1. | Take no action. | 674 | Virginia Department of Health Medical Safety Research Institute The Family Foundation Advocates for Home Schooling National Vaccine Information Center Center for Medical Freedom Virginians for Medical Freedom |
| 2. | Reintroduce legislation to amend section 22.1-271.2 and section 32.1-46 of the Virginia Code, removing religious and medical exemptions and by adding an exemption for medical contraindication as the only exemption. | 1 | |
| 3. | Introduce legislation to amend section 22.1-271.2 and section 32.1-46 of the Virginia Code, eliminating the religious exemption. | 2 | American Academy of Pediatricians Support |
| 4. | Introduce legislation to amend section 22.1-271.2 and section 32.1-46 of the Virginia Code, eliminating the religious exemption and providing that medical exemptions can only be obtained from a licensed physician and must say what the physical condition of the child is, which vaccines are being exempted, whether the exemption is temporary or permanent and if temporary when the exemption will expire. | 2 | American Academy of Pediatricians Support |
| 5. | Introduce legislation to amend section 22.1-271.2 and section 32.1-46 of the Virginia Code, splitting the religious exemption into two parts – a religious exemption and a philosophical exemption. Both the religious and philosophical exemptions would be required to include what vaccines the person objects to base on religion or philosophical beliefs. | 0 | |

| | POLICY OPTIONS AND DESCRIPTION | Comments Received in Support | Support by Organizations |
|----|---|-------------------------------------|---|
| 6. | Introduce legislation to amend section 22.1-271.2 and section 32.1-46 of the Virginia Code, adding a subsection allowing physicians to file alternative vaccination plans provided that the child receives all required vaccines before Kindergarten. | 0 | |
| 7. | Introduce legislation to amend Chapter 29 of Title 54.1 of the Virginia Code to improve the continuing medical education (CME) of physicians on childhood vaccinations. | 0 | |
| 8. | Introduce budget amendment (language and funding) for the Virginia Department of Health to design more effective messages concerning vaccination programs for different communities and for the continuing education of physicians and other health care providers. | 1 | American Academy of Pediatricians Support |
| 9. | Request by letter of the JCHC Chair that the Health Department and the Department of Education work with local school divisions and private schools to improve reporting by schools and home schools to make certain that schools with low vaccination rates are filing reports properly and timely and the reports are reviewed for the reasons for low vaccination rates. A report to the Commission detailing the results of the agency efforts will be provided by October 1, 2017. | 1 | American Academy of Pediatricians Support |
| * | Added by individual letter: Introduce legislation to amend section 22.1-271.2 and section 32.1-46 of the Virginia Code, eliminating the religious exemption but exempting home school (similar to California legislation). | 1 | |
| * | Added by individual letter: Introduce legislation to amend section 22.1-271.2 and section 32.1-46 of the Virginia Code, requiring: annual renewal of exemptions; mandatory education for parents seeking exemptions; require show of religious sincerity similar to New York State. | 1 | |

Short Excerpts from Organization Comments

JCHC received comments from the Virginia Department of Health and seven organizations. The VDH and organization comments are as follows:

Virginia Department of Health (VDH)

Option 1: VDH prefers option 1, take no action. VDH indicates that, “the low exemption rates and relatively high vaccine coverage rates, and low morbidity from vaccine preventable diseases,” make this option acceptable.

Option 2: VDH states that, exemption rates are low but “religious exemption rates, especially for private schools, are continuing a long term upward trend, it may be reasonable to take action now to address the issue before it becomes a problem.”

VDH notes that the proposed changes to the medical exemption are “very narrowly focused and would not allow physician discretion to defer vaccines based on the medical condition of the child.” VDH prefer the current statute for the medical exemption.

Option 3: VDH suggests that, “rather than removing the religious exemption entirely, that the language be changed to require periodic renewals of the religious exemption.”

Option 4: VDH notes that, “because the report of the [student’s medical] examination is inclusive of immunizations, amending the Code to ensure that the exemption can only be obtained from a licensed physician seems unnecessary.” VDH also states that, “it may be prudent to consider editing the current school form to clarify the definition of ‘medical provider’, along with clarifying an expectation that the provider completing the form [as] *has* a bona-fed practitioner-patient relationship with the patient.”

Option 5: VDH states that introducing a philosophical exemption would introduce a third exemption category. VDH states that, “Introducing this option is a step backwards; if option 5 is implemented, it would be recommended that stringent criteria are included to ensure that parents are appropriately informed about the benefits and risks of vaccine prior to using the philosophical route.”

Option 6: VDH states that, “the current CDC ACIP-recommended schedule does allow flexibility to administer vaccines within certain age ranges (e.g. the third doses of polio and hepatitis vaccines may be administered between the ages of 6 and 18 months of age). Delaying receipt of vaccines by deviating from the recommended schedule unnecessarily increases the amount of time children are susceptible to vaccine preventable diseases.” “Parental decisions to delay or avoid certain vaccines according to alternative schedules may have an impact on susceptibility of the individual child to vaccine-preventable diseases as well as on the community in which they live.”

Option 7: “VDH has confidence that medical providers that care for children are well-aware of the clinical recommendations for routine childhood and adolescent vaccination. This option, therefore, is not needed.”

Option 8: VDH notes that this option is already being done and the option is not needed.

Option 9: VDH indicates that this option is “laudable” but it will be challenging. The Department of Education maintains a current list of public schools, communication through email is occurring and there is “over 95% compliance each year” for public schools.

VDH notes that there is no comprehensive list of private or home schools that includes details about the level of instruction. VDH works with the Virginia Council for Private Education (VCPE) to create a list of school but notes that, “there is no way to reliably or routinely update the list for closures, new schools, changes in grades offered, changes in school administration, etc., especially for those facilities that are not affiliated with the VCPE.”

American Academy of Pediatrics (AAP)

AAP supports school entry immunization policies that ensure that students “receive their full immunizations according to current recommendations.”

The AAP recently published its revised policy statement and recommends that states “eliminate nonmedical exemptions from immunization requirements.”

AAP supports medically indicated exemptions “to specific immunizations as determined for each individual student. While rare, there are a small proportion of children with medical conditions that prohibit specific immunizations.”

The Virginia AAP supports: Policy options 3, 4, 8, and 9.

The Virginia AAP opposes: Policy options 5 and 7.

“...immunization requirements for school attendance are effective in protecting people from vaccine-preventable diseases, both by direct protection from the vaccine and indirect protection via community immunity.”

Children’s Medical Safety Research Institute

In support of policy option 1: Take no action:

“As a Virginian who cherishes the traditions of liberty, freedom and conscience inspired by the founding father of our state as well as our nation, my constitutionally protected right to freedom of religion was threatened by HB 1342, introduced by Delegate Stolle and Delegate Filler-Corn and is now the subject of a study before your committee.”

“Mandates without exemptions are wrong in the face of unanswered questions, or when safety concerns are validated by the science, especially given that so many children are suffering from chronic illness and disability with no plausible explanations for their cause.”

“This legislation was introduced as a result of a small number of citizens being falsely alarmed by two cases of measles that were never determined to have been spread by an unvaccinated individual. Legislating away a Constitutional right out of a fear of what might happen does not meet the required circumstances of addressing a compelling state interest or using the least restrictive means necessary.”

The Family Foundation

In support of policy option 1: Take no action:

The Family Foundation notes that: Virginia kindergarteners are among the highest vaccinated in the nation; Virginia has one of the lowest infectious disease rates in the nation; less than 1% of families with school aged children are religiously exempt; if a medical emergency occurs the Code provides for the state to override the religious exemption.

“There is no compelling argument for the revocation of the religious exemption for child vaccines.”

Home School Legal Defense Association (HSLDA)

In support of policy option 1: Take no action:

HSLDA expresses “firm and respectful opposition to any effort by the Joint Commission to erode the rights of parents to make preventative health care decisions for their children with respect to immunizations, including the right to rely on the independent advice of their personal physician.”

National Vaccine Information Center (NVIC)

In support of policy option 1: Take no action:

NVIC states that “doctors cannot accurately predict who is more susceptible to vaccine harm due to genetic, biological and environmental high risk factors. Despite vaccine science knowledge gaps, federal health officials have narrowed medical contraindications so that no family medical history and almost no personal medical history or condition qualified for a medical vaccine exemption.”

“Strict enforcement of ‘no exemptions’ vaccine laws lead to distrust of government and fear of doctors. It is wise to protect an individual parent’s legal ability to exercise conscience, religious belief and informed consent when making vaccine decisions for a minor child, as well as to protect the legal ability of individual physicians to exercise professional judgement and conscience when evaluating whether a child should receive a medical exemption to vaccination to attend school.”

Center for Medical Freedom

In support of policy option 1: Take no action.

“The proposal to restrict or abolish the right of religious exemption to vaccine mandates is contrary to the Constitution and the history of religious liberty in the Commonwealth of Virginia.”

“One of the reasons that Christians and many others are opposed to the administration of many common vaccines is that they were developed using cell lines that originally were cells taken from electively aborted babies. The vaccines themselves do not contain fetal cells, but there are significant ‘residual’ biological components from the fetal cells that have been assimilated into the vaccine, including cell proteins and measurable portions of fetal DNA.”

“Residual cell parts from murdered unborn children may be rationalized as a scientific necessity by pharmaceutical companies, for the purpose of growing their antigen, but you can never remove the devastating spiritual consequences of such ingredients.”

“...many religious exemptions are also based on the parent’s concern that not enough is done to make vaccines safe as they could be and that they, the parent, not the state, are ultimately responsible to God, for the utmost protection of their child’s well-being.”

“The science on vaccines is far from ‘settled.’ The very nature of science is that it can never be settled. It must always evolve, utilizing new technologies and methods to retest the hypothesis proved by older science as well as progress forward with new novel hypothesis.”

Virginians for Medical Freedom

In support of policy option 1: Take no action.

“... in Virginia we have the Virginia Statute for Religious Freedom that protects not only our religious freedom, but also the conscience and our thought.”

“Thomas Jefferson was the author of both the Declaration of Independence and the Virginia Statute for Religious Freedom. Virginia was the first state to separate church and state; it is still a part of Virginia’s Constitution; it was used as a model for other states’ constitutions; and it was used as a model for the religious language of the Bill of Rights.”

“..the Virginia Statute for Religious Freedom is a statement about freedom NOT ONLY of religion, but also freedom of thought and conscience. It is based on the principle of separation of church and state. So, to believe that some may be overusing or exploiting this fundamental right to get out of vaccinating is incorrect because this is a right that cannot be abused. If a person’s conscience leads them to feel that vaccinations are wrong, laws that uphold this belief protect them.”