

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 276

BY SENATOR WALTERS

[Introduced January 14, 2016; Referred
to the Committee on Health and Human Resources; and
then to the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §16-3-4a, relating to requiring influenza immunizations for health care workers;
 3 defining terms; providing criminal penalties; and establishing fines.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §16-3-4a, to read as follows:

**ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER
 INFECTIOUS DISEASES.**

**§16-3-4a. Compulsory immunization of health care workers for influenza; offenses;
 penalties.**

1 (a) Except as otherwise provided in this section a health care worker, as defined in this
 2 section, working in a health care facility must receive an annual influenza immunization by
 3 October 1 of every year as recommended by the Center for Disease Control.

4 (b) A health care worker shall be suspended from his or her employment in a health care
 5 facility until he or she has been immunized against influenza as provided in subsection (a) of this
 6 section or produces a certificate from his or her personal physician indicating that the influenza
 7 vaccination is contraindicated for that particular health care worker. A request for an exemption
 8 to the compulsory immunization requirements of this section must be accompanied by a
 9 certification from a licensed physician stating that the physical condition of the health care worker
 10 is such that immunization is contraindicated or there exists a specific precaution to a particular
 11 vaccine.

12 (c) Health officers and physicians who provide vaccinations must present the person
 13 vaccinated with a certificate free of charge showing that they have been immunized against
 14 influenza.

15 (d) As used in this section:

16 (1) "Healthcare worker" means a person who works in the health care facility, whether paid
17 or unpaid, who has the potential for exposure to infectious materials, including body substances,
18 contaminated medical supplies and equipment, contaminated environmental surfaces, or
19 contaminated air. This includes, but is not limited to, all employees on payroll, all licensed
20 independent practitioners affiliated with the hospital but not on payroll, students, trainees,
21 volunteers and any other contract personnel.

22 (2) "Health care facility" means a publicly or privately owned facility, agency or entity that
23 offers or provides health care services, whether a for-profit or nonprofit entity and whether or not
24 licensed, or required to be licensed, in whole or in part, and includes, but is not limited to,
25 hospitals; skilled nursing facilities; kidney disease treatment centers, including free-standing
26 hemodialysis units; intermediate care facilities; ambulatory health care facilities; ambulatory
27 surgical facilities; home health agencies; hospice agencies; rehabilitation facilities; health
28 maintenance organizations; and community mental health and intellectual disability facilities. For
29 purposes of this definition, "community mental health and intellectual disability facility" means a
30 private facility which provides such comprehensive services and continuity of care as emergency,
31 outpatient, partial hospitalization, inpatient or consultation and education for individuals with
32 mental illness, intellectual disability or drug or alcohol addiction.

33 (e) A physician who provides a person with a false certificate of immunization against
34 influenza as required by this section is guilty of a misdemeanor and, upon conviction, shall be
35 fined not less than \$25 nor more than \$100. A health care facility that continues to employ a
36 health care worker who has not been immunized as required by this section shall be fined not
37 less than \$1,000 and not more than \$5,000.

NOTE: The purpose of this bill is to require that all health care workers receive an influenza vaccination by the October 1 every year.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.