

Senate proposal of amendment

H. 545

An act relating to issuing immunization recommendations

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Effective on Passage until July 1, 2031: Commissioner of Health's
Immunization Recommendations * * *

Sec. 1. 18 V.S.A. § 1130 is amended to read:

§ 1130. IMMUNIZATION FUNDING

(a) As used in this section:

* * *

(4) "~~Immunizations~~ Recommended immunization" means ~~vaccines~~ a vaccine or other immunizing agent that provides protection against a particular disease or pathogen and the application of the ~~vaccines~~ immunization as recommended by the practice guidelines for children and adults established by the ~~Advisory Committee on Immunization Practices (ACIP) to the Centers for Disease Control and Prevention (CDC)~~ Commissioner pursuant to section 1130a of this title.

* * *

(b)(1) The Department of ~~Health~~ shall administer an immunization program with the goals of ensuring universal access to ~~vaccines~~ recommended immunizations for all Vermonters at no charge to the individual and reducing the cost at which the State may purchase ~~vaccines~~ recommended immunizations. The Department shall purchase, provide for the distribution of, and monitor the use of ~~vaccines~~ recommended immunizations as provided for in this subsection and subsection (c) of this section. The cost of the ~~vaccines~~ recommended immunizations and an administrative surcharge shall be reimbursed by health insurers as provided for in subsections (e) and (f) of this section.

(2) The Department shall solicit, facilitate, and supervise the participation of health care professionals, health care facilities, and health insurers in the immunization program in order to accomplish the State's goal of universal access to recommended immunizations at the lowest practicable cost to individuals, insurers, and State health care programs.

(3) The Department shall gather and analyze data regarding the immunization program for the purpose of ensuring its quality and maximizing protection of Vermonters against diseases preventable by ~~vaccination~~ immunization.

(c) The Department shall determine which recommended immunizations shall be purchased under the program. The immunization program shall purchase ~~vaccines~~ recommended immunizations consistent with the goals of the program from the federal Centers for Disease Control and Prevention or another vendor at the lowest available cost. ~~The Department shall determine annually which vaccines for adults shall be purchased under the program.~~

(d) The immunization program shall provide for distribution of the ~~vaccines~~ recommended immunizations to health care professionals and health care facilities for administration to patients.

(e) Health insurers shall remit to the Department the cost of ~~vaccines~~ recommended immunizations, as established by the Commissioner of Health based on the recommendation of the Immunization Funding Advisory Committee established in subsection (g) of this section.

(f) The Department shall charge each health insurer a surcharge for the costs and administration of the immunization program. The surcharge shall be deposited into an existing special fund and used solely for the purpose of administering the program.

(g)(1) The Immunization Funding Advisory Committee is established to provide the Commissioner of Health with an annual per-member per-month cost for ~~vaccines~~ recommended immunizations for the pediatric population, an annual per-member per-month cost for ~~vaccines~~ recommended immunizations for the adult population, and a recommendation for the amount of the yearly ~~vaccine~~ immunization assessment. The Committee shall comprise the following nine members:

(A) the Executive Officer of the Board of Pharmacy or designee;

(B) the Executive Director of the Green Mountain Care Board or designee;

(C) a representative, appointed by the Director of the Vermont Blueprint for Health, ~~nominated by the Director of the Blueprint and appointed by the Commissioner of Health~~;

(D) three representatives of health insurers, one ~~from each of each~~ appointed by the State's largest three private health insurers, as determined by the number of covered lives, ~~appointed by the Commissioner of Health~~;

(E) a representative, appointed by the Vermont chapter of the American Academy of Pediatrics, ~~Vermont chapter, appointed by the Commissioner of Health~~;

(F) a representative, appointed by the Vermont chapter of the American Academy of Family Medicine, ~~Vermont chapter, appointed by the Commissioner of Health~~; and

(G) a representative of employers that self-insure for health coverage, appointed by the Commissioner of Health.

(2) The Committee shall select a chair from among its members at the first meeting of each calendar year. The Committee shall receive administrative and technical support from the Department of Health.

(3) ~~By~~ On or before January 1 of each year, the Committee shall provide to the Commissioner the annual fiscal assessment and the per-member per-month cost for pediatric ~~vaccines~~ recommended immunizations based on the total number of pediatric covered lives reported by health insurers and the per-member per-month cost for adult ~~vaccines~~ recommended immunizations based on the total number of adult covered lives reported by health insurers.

(h) If ~~federal~~ purchase requirements do not further the goal of ensuring universal access to ~~vaccines~~ recommended immunizations for all, the Commissioner may, following consultation with the Immunization Funding Advisory Committee, discontinue the program with six months' advance notice to all health care professionals and to all health insurers with Vermont covered lives.

(i) The Department may adopt rules under 3 V.S.A. chapter 25 to implement this section.

Sec. 2. 18 V.S.A. § 1130a is added to read:

§ 1130a. RECOMMENDED IMMUNIZATIONS

(a) The Commissioner shall periodically issue recommendations regarding:

(1) which immunizations children and adults are recommended to receive;

(2) the age at which each immunization is recommended to be given;

(3) the number of immunization doses that are recommended to be administered;

(4) the recommended amount of time between doses of an immunization; and

(5) any other recommendations regarding immunizations necessary to promote the maintenance of public health and disease prevention in the State.

(b) Prior to issuing recommendations under subsection (a) of this section, the Commissioner shall:

(1) consult with the Vermont Immunization Advisory Council, established under section 1131 of this title; and

(2) consider recommendations for immunizations issued by the Centers for Disease Control and Prevention's Advisory Committee on Immunization

Practices (ACIP), the American Academy of Pediatrics (AAP), the American Academy of Family Physicians (AAFP), the American College of Obstetricians and Gynecologists (ACOG), the American College of Physicians (ACP), and any other organizations the Commissioner may deem necessary.

(c) A health care professional who prescribes, dispenses, or administers an immunization in accordance with the recommendations issued pursuant to subsection (a) of this section shall be immune from civil and administrative liability for immunization-caused adverse events, unless the health care professional's actions regarding prescribing, dispensing, or administering an immunization constituted gross negligence, recklessness, or intentional misconduct.

(d) The Commissioner may issue a standing order authorizing health care professionals, including pharmacists, to prescribe, dispense, or administer recommended immunizations, or any combination thereof, to the extent that prescribing, dispensing, or administering recommended immunizations is within the scope of the health care professional's practice.

(e)(1) The Department shall prominently display information pertaining to recommended immunizations and other relevant information on its website, including how to access recommended immunizations.

(2) Any documents produced by the Department about the recommended immunizations shall include a disclosure if the recommended immunizations differ from the recommendations of the Vermont Immunization Advisory Council.

(f) As used in this section, "health care professional" and "recommended immunization" have the same meanings as in section 1130 of this title.

Sec. 3. 18 V.S.A. § 1131 is amended to read:

§ 1131. VERMONT IMMUNIZATION ADVISORY COUNCIL

(a) Creation. There is created the Vermont Immunization Advisory Council for the purpose of providing education policy, medical, and epidemiological expertise and advice to the Department with regard to the safety of immunizations and immunization schedules.

(b) Membership. The Council shall be composed of the following members:

(1) ~~a representative~~ the executive officer of the Vermont Board of Medical Practice, ~~appointed by the Governor or designee;~~

(2) ~~the Secretaries~~ Secretary of Human Services ~~and of or designee;~~

(3) the Secretary of Education or ~~their designees~~ designee;

~~(3)~~(4) a representative of public schools, appointed by the Governor;

~~(4)~~(5) the State epidemiologist Epidemiologist or designee;

~~(6)~~ the Department of Health's Immunization Program Manager or designee;

(7) a practicing pediatrician, appointed by the Governor;

(8) two individuals who are professors, researchers, or physicians, or any combination of these individuals, with expertise in infectious disease and human immunizations, appointed by the Governor;

(9) a family or internal medicine physician, appointed by the Governor;

~~(5)~~(10) a representative of both public and independent schools, appointed by the Governor; and practicing advanced practice registered nurse licensed pursuant to 26 V.S.A. chapter 28, appointed by the Governor;

(11) a practicing pharmacist licensed pursuant 26 V.S.A. chapter 36, appointed by the Governor; and

~~(6)~~(12) any other persons deemed necessary by the Commissioner.

(c) ~~Powers and duties~~ Duties.

(1) The Council shall:

~~(1)~~(A) review and make recommendations regarding the State's immunization schedule for attendance in schools and child care facilities; and

~~(2)~~(B) provide any other advice and expertise requested by the Commissioner, including advice regarding recommended immunizations as defined in section 1130 of this title.

(2) The Secretary of Education or designee and representative of public schools shall not vote on advice regarding recommended immunizations as defined in section 1130 of this title.

(d) Assistance. The Council shall have the administrative, and technical, ~~and legal~~ assistance of the Department.

(e) Meetings.

(1) The Council shall convene at the call of the Commissioner, but ~~no~~ not less than once each year.

(2) The Council shall select a chair from among its members at the first meeting who shall not be the Commissioner.

(3) A majority of the membership shall constitute a quorum.

* * * Effective on Passage until July 1, 2031: Insurance Coverage for
Commissioner of Health's Recommended Immunizations * * *

Sec. 4. 8 V.S.A. § 4042 is amended to read:

§ 4042. GROUP INSURANCE POLICIES; REQUIRED POLICY PROVISIONS

* * *

(b) Protections for covered individuals.

* * *

(4) No cost sharing for preventive services.

(A) A group insurance policy shall not impose any co-payment, coinsurance, or deductible requirements for:

* * *

(ii) ~~recommended immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved as defined in 18 V.S.A. § 1130;~~

* * *

Sec. 5. 33 V.S.A. § 1811 is amended to read:

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

* * *

(d)(1) Guaranteed issue.

* * *

(5)(A) No cost sharing for preventive services. A health benefit plan shall not impose any co-payment, coinsurance, or deductible requirements for:

* * *

(ii) ~~recommended immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved as defined in 18 V.S.A. § 1130;~~

* * *

* * * Effective on Passage until July 1, 2031: Pharmacist and Pharmacy Technician Authority under the Commissioner of Health's Immunization Recommendations * * *

Sec. 6. 26 V.S.A. § 2023 is amended to read:

§ 2023. CLINICAL PHARMACY; PRESCRIBING

* * *

(b) A pharmacist may prescribe in the following contexts:

* * *

(2) State protocol.

(A) A pharmacist may prescribe, order, or administer in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

(i) opioid antagonists;

(ii) epinephrine auto-injectors;

(iii) tobacco cessation products;

(iv) tuberculin purified protein derivative products;

(v) self-administered hormonal contraceptives, including subcutaneous depot medroxyprogesterone acetate;

(vi) dietary fluoride supplements;

(vii) recommended immunizations as defined in 18 V.S.A. § 1130 for patients 18 years of age or older, vaccinations recommended by the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP) and administered consistently with the ACIP-approved immunization schedules, as may be amended from time to time;

(viii) for patients five years of age or older, influenza vaccine immunization, COVID-19 vaccine immunization, and subsequent formulations or combination products thereof consistent with the recommendations established in accordance with 18 V.S.A. § 1130a;

* * *

Sec. 7. 26 V.S.A. § 2042a is amended to read:

§ 2042a. PHARMACY TECHNICIANS; QUALIFICATIONS FOR REGISTRATION

* * *

(c) Pharmacy technicians shall only administer immunizations:

(1) when a licensed pharmacist who is trained to immunize is present and able to assist with the immunization, as needed;

(2) pursuant to:

(A) a valid prescription by a practitioner;

(B) a standing order made by the Commissioner of Health; or

(C) a protocol approved by the Commissioner of Health under subdivision 2023(b)(2)(A) of this title; and

(3) to patients;

(A) 18 years of age or older, as established in subdivision 2023(b)(2)(A)(vii) and the resulting State protocol; and

(2)(B) to patients five years of age or older, seeking an influenza vaccine immunization, COVID-19 vaccine immunization, and subsequent formulations or combination products thereof, in accordance with subdivision 2023(b)(2)(A)(viii) and the resulting State protocol;

(3) pursuant to the schedules and recommendations of the Advisory Committee on Immunization Practices' recommendations for the administration of immunizations, as those recommendations may be updated from time to time; and

(4) when a licensed pharmacist who is trained to immunize is present and able to assist with the immunization, as needed.

(d) Pharmacy technicians shall administer only those immunizations that:

(1) are recommended by the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP); and

(2) licensed pharmacists are permitted to administer under the State clinical pharmacy protocol, as established in subdivision 2023(b)(2) of this title.

(e) Pharmacy technicians performing COVID-19 tests shall do so only:

(1) when a licensed pharmacist who is trained to perform COVID-19 tests is present and able to assist with the test, as needed;

(2) in accordance with a State protocol adopted under subdivision 2023(b)(2)(A)(x) of this title; and

(3) in accordance with rules adopted by the Board.

(f)(e) The Board may adopt rules regarding the administration of immunizations and the performance of COVID-19 tests by pharmacy technicians.

* * * Effective on July 1, 2031: Restoring Certain Immunization
Recommendation Processes * * *

Sec. 8. 18 V.S.A. § 1130 is amended to read:

§ 1130. IMMUNIZATION FUNDING

(a) As used in this section:

* * *

(4) “~~Recommended immunization~~ Immunization” means a vaccine or other immunizing agent that provides protection against a particular disease or pathogen and the application of the immunizations as recommended by the practice guidelines for children and adults established by the ~~Commissioner pursuant to section 1130a of this title~~ Advisory Committee on Immunization Practices (ACIP) to the Centers for Disease Control and Prevention (CDC).

* * *

(b)(1) The Department of Health shall administer an immunization program with the goals of ensuring universal access to ~~recommended~~ immunizations at no charge to the individual and reducing the cost at which the State may purchase ~~recommended~~ immunizations. The Department shall purchase, provide for the distribution of, and monitor the use of ~~recommended~~ immunizations as provided for in this subsection and subsection (c) of this section. The cost of the ~~recommended~~ immunizations and an administrative surcharge shall be reimbursed by health insurers as provided for in subsections (e) and (f) of this section.

(2) The Department shall solicit, facilitate, and supervise the participation of health care professionals, health care facilities, and health insurers in the immunization program in order to accomplish the State’s goal of universal access to ~~recommended~~ immunizations at the lowest practicable cost to individuals, insurers, and State health care programs.

(3) The Department shall gather and analyze data regarding the immunization program for the purpose of ensuring its quality and maximizing protection of Vermonters against diseases preventable by immunization.

(c) ~~The Department shall determine which recommended immunizations shall be purchased under the program.~~ The immunization program shall purchase ~~recommended~~ immunizations ~~consistent with the goals of the program~~ from the federal Centers for Disease Control and Prevention ~~or another vendor~~ at the lowest available cost. The Department shall determine annually which immunizations for adults shall be purchased under the program.

(d) The immunization program shall provide for distribution of the ~~recommended~~ immunizations to health care professionals and health care facilities for administration to patients.

(e) Health insurers shall remit to the Department the cost of ~~recommended~~ immunizations, as established by the Commissioner based on the recommendation of the Immunization Funding Advisory Committee established in subsection (g) of this section.

(f) The Department shall charge each health insurer a surcharge for the costs and administration of the immunization program. The surcharge shall be

deposited into an existing special fund and used solely for the purpose of administering the program.

(g)(1) The Immunization Funding Advisory Committee is established to provide the Commissioner with an annual per-member per-month cost for ~~recommended~~ immunizations for the pediatric population, an annual per-member per-month cost for ~~recommended~~ immunizations for the adult population, and a recommendation for the amount of the yearly immunization assessment. The Committee shall comprise the following nine members:

* * *

(2) The Committee shall select a chair from among its members at the first meeting of each calendar year. The Committee shall receive administrative and technical support from the Department.

(3) On or before January 1 of each year, the Committee shall provide to the Commissioner the annual fiscal assessment and the per-member per-month cost for pediatric ~~recommended~~ immunizations based on the total number of pediatric covered lives reported by health insurers and the per-member per-month cost for adult ~~recommended~~ immunizations based on the total number of adult covered lives reported by health insurers.

(h) If federal purchase requirements do not further the goal of ensuring universal access to ~~recommended~~ immunizations for all, the Commissioner may, following consultation with the Immunization Funding Advisory Committee, discontinue the program with six months' advance notice to all health care professionals and to all health insurers with Vermont covered lives.

(i) The Department may adopt rules under 3 V.S.A. chapter 25 to implement this section.

Sec. 9. 18 V.S.A. § 1131 is amended to read:

§ 1131. VERMONT IMMUNIZATION ADVISORY COUNCIL

(a) Creation. There is created the Vermont Immunization Advisory Council for the purpose of providing education policy, medical, and epidemiological expertise and advice to the Department with regard to the safety of immunizations and immunization schedules.

* * *

(c) Duties.

(+) The Council shall:

(A)(1) review and make recommendations regarding the State's immunization schedule for attendance in schools and child care facilities; and

~~(B)(2) provide any other advice and expertise requested by the Commissioner, including advice regarding recommended immunizations as defined in section 1130 of this title.~~

~~(2) The Secretary of Education or designee and representative of public schools shall not vote on advice regarding recommended immunizations as defined in section 1130 of this title.~~

* * *

(e) Meetings.

(1) The Council shall convene at the call of the Commissioner, but not less than once each year.

(2) The Council shall select a chair from among its members at the first meeting ~~who shall not be the Commissioner.~~

(3) A majority of the membership shall constitute a quorum.

* * * Effective on July 1, 2031: Restoring the Current Insurance Coverage for Immunizations in Effect Prior to Passage * * *

Sec. 10. 8 V.S.A. § 4042 is amended to read:

§ 4042. GROUP INSURANCE POLICIES; REQUIRED POLICY PROVISIONS

* * *

(b) Protections for covered individuals.

* * *

(4) No cost sharing for preventive services.

(A) A group insurance policy shall not impose any co-payment, coinsurance, or deductible requirements for:

* * *

(ii) recommended immunizations as defined in 18 V.S.A. § 1130 for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved;

* * *

Sec. 11. 33 V.S.A. § 1811 is amended to read:

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

* * *

(d)(1) Guaranteed issue.

(A) A registered carrier shall guarantee acceptance of all individuals and their dependents for any health benefit plan offered by the carrier in the individual market, regardless of any outstanding premium amount a subscriber may owe to the carrier for coverage provided during the previous plan year.

* * *

(5)(A) No cost sharing for preventive services. A health benefit plan shall not impose any co-payment, coinsurance, or deductible requirements for:

* * *

(ii) recommended immunizations as defined in 18 V.S.A. § 1130 for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved;

* * *

* * * Effective on July 1, 2031: Restoring Current Pharmacist and Pharmacy Technician Authority in Effect Prior to Passage * * *

Sec. 12. 26 V.S.A. § 2023 is amended to read:

§ 2023. CLINICAL PHARMACY; PRESCRIBING

* * *

(b) A pharmacist may prescribe in the following contexts:

* * *

(2) State protocol.

(A) A pharmacist may prescribe, order, or administer in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

- (i) opioid antagonists;
- (ii) epinephrine auto-injectors;
- (iii) tobacco cessation products;
- (iv) tuberculin purified protein derivative products;
- (v) self-administered hormonal contraceptives, including subcutaneous depot medroxyprogesterone acetate;
- (vi) dietary fluoride supplements;

(vii) ~~recommended immunizations as defined in 18 V.S.A. § 1130 for patients 18 years of age or older, vaccinations recommended by the Centers for Disease Control and Prevention’s Advisory Committee on Immunization Practices (ACIP) and administered consistently with the ACIP-approved immunization schedules, as may be amended from time to time;~~

(viii) ~~for patients five years of age or older, influenza immunization vaccine, COVID-19 immunization vaccine, and subsequent formulations or combination products thereof consistent with the recommendations established in accordance with 18 V.S.A. § 1130a;~~

* * *

Sec. 13. [Deleted.]

* * * Effective on July 1, 2031: Repeal of Immunization Recommendations

* * *

Sec. 14. REPEAL; IMMUNIZATION RECOMMENDATIONS

18 V.S.A. § 1130a (recommended immunizations) is repealed on July 1, 2031.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section, Secs. 1–7, and Sec. 14 shall take effect on passage.

(b) Secs. 8–13 shall take effect on July 1, 2031.