

Briefing Paper by National Vaccine Information Center (NVIC)
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**Virginia HB 1342: A General Assembly Bill to Repeal
Religious and Physician Granted Medical Exemption to Vaccination
for Minor Children in Virginia**

Date Introduced: Jan. 21, 2016

Referred: [House Health, Welfare and Institutions Committee](#) Jan. 25, 2016.

Primary Bill Sponsors:

Chief Patron: Eileen Filler-Corn (41st District). Phone (Richmond): 804-698-0141; Phone (District): 571-249-3453; Email: DelEFiller-Corn@house.virginia.gov. Room 414, General Assembly Building. Since 2010, [Eileen Filler-Corn](#) has represented residents of Burke and parts of Fairfax, Fairfax Station and West Springfield.

Co-Patron: Christopher P. Stolle, M.D. (81st District). Phone (Richmond) 804-698-1083; Phone (District) 757-633-2080. Email: DelCStolle@house.virginia.gov; Room 420, General Assembly Building. Since 2010, [Dr. Christopher Stolle](#) has represented residents in parts of the cities of Norfolk and Virginia Beach.

Virginia Law: Current law ([Code of Virginia 32.1-46](#)) requires minor children, whether or not they attend public or private elementary, middle and secondary schools; child care centers; nursery schools; family day care homes; and developmental centers or are [homeschooled children](#), to receive up to 31 doses of 12 federally recommended vaccines (diphtheria, tetanus, pertussis, polio, HIB, hepatitis B, measles, mumps, rubella, varicella zoster, pneumococcal, HPV) administered "in accordance with the Immunization Schedule developed and published by the Centers for Disease Control (CDC)" unless a parent or guardian submits: (1) a statement from a state licensed physician or nurse practitioner that one or more required vaccines would be detrimental to the health of the child; or submits (2) a signed affidavit affirming that the administration of one or more required vaccines conflicts with religious tenets or practices.

HB 1342 Purpose:

- 1. Prohibits a parent or guardian from exercising freedom of conscience that applies to religious belief** and obtaining a religious exemption for a minor child for one or more vaccinations.
- 2. Prohibits a state licensed physician or nurse practitioner from exercising professional judgment** in delaying administration of or granting a medical exemption to a child for one or more vaccinations if the reasons do not conform with [federal vaccine contraindication guidelines](#).

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HB 1342 Impact:

If HB 1342 is enacted into law:

- **Virginia licensed physicians and nurse practitioners would be required to adhere to narrow federal vaccine contraindications and would not be allowed to grant a medical vaccine exemption for a child based on professional judgment.** Federal vaccine contraindication guidelines currently [exclude 99.99 percent of children](#) from medical vaccine exemptions, including those who have experienced vaccine reactions or injuries leading to chronic poor health and disability, or whose siblings have suffered vaccine injury or death.
- **Parents with sincerely held religious beliefs would be forced to violate their conscience and be unable to obtain a religious belief vaccine exemption,** including in cases where a child has already suffered a vaccine reaction, has been disabled or has a sibling who has been injured or died following receipt of one or more doses of federally recommended and state mandated vaccines.

NVIC Opposes HB1342 for the following reasons:

1. **Violation of Existing State Law Protecting Religious and Parental Rights.** HB 1342 violates the spirit and intent of Article 1, Sections 1 and 15-17 of the [Bill of Rights of The Virginia Constitution](#); the [Virginia 1786 Act for Religious Freedom](#); the Virginia [2007 Religious Freedom Act](#) and the Virginia [2013 Parental Rights Act](#). The bill prevents citizens from exercising freedom of conscience protected in the Virginia Constitution and reaffirmed by subsequent state laws guaranteeing freedom of religion and the fundamental right of a parent to make decisions concerning the upbringing, education and care of the parent's child.
2. **Violation of Medical Practice Ethical Standards.** HB 1342 violates the [Hippocratic Oath](#) and the ethical principle of [informed consent](#) to medical risk-taking. The bill would prevent state licensed physicians from working as trusted partners with parents and exercising professional judgment in assessing the health of a minor child and, if determining that a child is unfit for vaccination, being allowed to grant the child a medical exemption when the reason for granting the medical exemption does not strictly conform to narrow federal vaccine contraindication guidelines.
3. **No Compelling State Interest.** There is no public health emergency or compelling state interest that justifies violating the right to freedom of conscience with the removal of the religious vaccine exemption or restriction of the medical vaccine exemption when Virginia already has:

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- **High Vaccination Rates, Low Vaccine Exemption Rates.** In the 2014-2015 school year, the [CDC reported](#) an estimated 97.4% of kindergarten children had received five DTaP shots; 93.4% had received two MMR shots and 90.4% had received two varicella zoster shots, while only 305 children had medical vaccine exemptions and 891 had religious vaccine exemptions, one of the highest vaccination rates and lowest vaccine exemption rates (1.1%) in the nation. In addition, the [CDC reported](#) that among Virginia children aged 19 to 35 months, 91.5% had at least one dose of MMR and four doses of DTaP vaccines, which equals or exceeds the national average. According to the United Health Foundation, Virginia ranked in the [top third of states](#) (#16) with high vaccination rates for recommended doses of DTaP, polio, MMR, HIB, hepatitis B, varicella and pneumococcal vaccines among children 19 to 35 months old.
 - **Low Infectious Disease Rates.** According to the United Health Foundation, in 2015 Virginia ranked #10 among all states with a [low infectious disease rate](#), including for pertussis. According to the CDC, in 2014 Virginia had a pertussis incidence rate of [6.1 per 100,000 persons \(505 pertussis cases\)](#), one of the lowest in the nation. According to the CDC, during the past year, Virginia has had [fewer than five cases of measles](#) reported.
4. **Vaccines Carry Risk of Harm.** Vaccines are pharmaceutical products that carry a risk of injury or death, a fact that was acknowledged by the U.S. Congress in 1986 when it passed the [National Childhood Vaccine Injury Act](#). Since 1988, the federal vaccine injury compensation program created under that law has awarded [more than \\$3 billion](#) to children and adults injured by vaccines or to families whose loved ones died from vaccine reactions, although two out of three who apply are [denied compensation](#). The Institute of Medicine in a series of reports on vaccine safety spanning 25 years has acknowledged there is [individual susceptibility to vaccine reactions](#) for genetic, biological and environmental reasons that have not been fully defined by science, and doctors often cannot predict ahead of time who will be harmed. [Long standing gaps in vaccine safety research](#) and emerging evidence that [certain vaccines do not prevent infection or transmission of disease](#), urgently require legal protection of physician's rights and parental rights regarding medical and religious exemptions to vaccination for minor children.
5. **Vaccine Manufacturers Have No Civil Liability.** The 1986 law partially shielded drug companies selling vaccines in the U.S. from civil liability and, in 2011, the [US Supreme Court completely shielded vaccine manufacturers from liability](#) for FDA licensed and CDC recommended vaccines. There is no product liability or accountability for pharmaceutical companies marketing federally recommended and state

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mandated vaccines that injure Americans or cause their death, which makes [flexible medical and non-medical vaccine exemptions in vaccine policies and laws](#) the only way Americans can protect themselves and their children from vaccine risks and failures.

- 6. Many New Vaccines Coming.** The CDC's [childhood vaccine schedule in 1983](#) was 23 doses of seven vaccines (DPT, MMR, polio) given before age six, and the cost of vaccinating a child with all federally recommended vaccines was \$80 per child in a pediatric private practice. That cost has increased to about [\\$2800 per child in 2015](#) because the numbers of federally recommended vaccines for children has increased to [69 doses of 16 vaccines between day of birth and age 18](#). There are [several thousand vaccine clinical trials](#) being conducted, including for infectious and non-infectious diseases such as gonorrhea, syphilis, chlamydia, HIV/AIDS, genital herpes, RSV, strep B, cytomegalovirus, hepatitis C, tuberculosis, e-coli, salmonella, asthma, diabetes, obesity, anti-cocaine and heroin use. Many of these [new vaccines in development](#) will be federally recommended for children.

SUMMARY

When there is risk of harm from a pharmaceutical product recommended by government, especially a product that is marketed by companies completely shielded from civil liability, the parent's right to exercise conscience, religious belief and informed consent on behalf of a minor child must be legally protected. In light of the fact that vaccine risks are not borne equally by all due to known and unknown individual genetic and other biological or environmental susceptibilities, parental rights, as well as those of a state licensed physician or designated vaccine provider to exercise professional judgment in protecting a child from vaccine injury and death, must be preserved in the form of flexible medical and non-medical vaccine exemptions in health policies and laws.

The least restrictive means for ensuring the public health and safety should be employed by the legislature to protect public trust in the wisdom and fairness of government policy and law. There is no public health emergency in Virginia or compelling state interest that justifies the passage of HB1342, which would violate human, civil and parental rights and would never have been condoned by the state's founding fathers and authors of the Virginia Constitution.