

1 AN ACT relating to immunization policy.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
4 READ AS FOLLOWS:

5 **(1) For the purposes of this section, "immunization policy" means a rule**
6 **promulgated by an institution in the postsecondary education system requiring a**
7 **student, staff, or faculty member to obtain an immunization for a vaccine-**
8 **preventable disease or receive a vaccine granted emergency use authorization for**
9 **attendance or employment with the school.**

10 **(2) Notwithstanding any other provisions of the Kentucky Revised Statutes, an**
11 **institution in the postsecondary education system shall permit a student, staff, or**
12 **faculty member to opt out of its immunization policy based on religious grounds,**
13 **a medical exemption, or conscientiously held beliefs.**

14 **(3) Notwithstanding any provisions of this chapter to the contrary, an institution in**
15 **the postsecondary education system shall not mandate compliance with a new**
16 **vaccination policy during an ongoing school year.**

17 **(4) Notwithstanding any other law, each appropriate state agency shall ensure that**
18 **all institutions in the postsecondary education system in this state comply with**
19 **this section. If a school fails to comply with this section, it shall be deemed**
20 **ineligible to receive a state grant or enter into a contract payable with state funds,**
21 **and the state may deny the school authorization for operation.**

22 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO
23 READ AS FOLLOWS:

24 **(1) As used in this section:**

25 **(a) "Immunization status" means the status of either having received or not**
26 **received a vaccination for a vaccine-preventable disease or a vaccine**
27 **granted emergency use authorization; and**

1 **(b) "Public entity" means the Commonwealth of Kentucky, a county, city,**
2 **urban-county government, consolidated local government, unified local**
3 **government, or charter county government, or any of their agencies or**
4 **departments, a public agency as defined in KRS 7.107, or any nonprofit**
5 **corporation as defined in KRS 14A.1-070.**

6 **(2) A public entity shall not mandate or issue standardized documentation to certify**
7 **an individual's immunization status to a third party for a purpose other than**
8 **health care or otherwise publish or share any individual's immunization status or**
9 **similar health information for a purpose other than health care.**

10 **(3) Notwithstanding subsections (1) and (2) of this section, a public entity may share**
11 **an individual's immunization status with another public entity or third party with**
12 **the consent of that individual.**

13 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO
14 READ AS FOLLOWS:

15 **(1) An employer that requires an employee, as a condition of employment, to be**
16 **immunized against disease shall:**

17 **(a) Grant an exception to any employee for a sincerely held religious belief**
18 **against immunization;**

19 **(b) Grant an exception to any employee for whom, in the written opinion of a**
20 **health care provider, the required immunization would be injurious to his**
21 **or her health; and**

22 **(c) Provide notice of the required immunization to each employee in a written**
23 **document that:**

24 **1. Advises in plain language the available exemptions from the required**
25 **immunization for a sincerely held religious belief or medical**
26 **contraindication; and**

27 **2. Requires each employee to acknowledge, in writing, receipt of the**

1 requirement and receipt of the available exemptions.

2 (2) An employer may require an employee to swear or affirm the claimed exemption
3 on a form that substantially complies with the following:

4 "I, [employee name], swear or affirm, by my signature below, that I:

5 Hold a sincere religious belief against receiving immunization
6 against disease; or

7 Object to the immunization as the required immunization would be
8 injurious to my health.

9 [Employee signature] [Date].....".

10 (3) No additional substantiation or documentation of an employee's sincerely held
11 religious belief shall be required.

12 (4) A written opinion from a health care provider that the required immunization
13 would be injurious to the employee's health shall be the only documentation
14 required for an employee's claimed health exemption. As used in this subsection,
15 "health care provider" means:

16 (a) An advanced practice registered nurse licensed under KRS Chapter 314;

17 (b) An optometrist licensed under KRS Chapter 320;

18 (c) A pharmacist licensed under KRS Chapter 315;

19 (d) A physician or osteopath licensed under KRS Chapter 311; or

20 (e) A physician assistant regulated under KRS Chapter 311.

21 (5) Any employee in this state whose employer is subject to COVID-19 vaccine
22 mandates under federal Executive Order 14042, federal Executive Order 14043,
23 or 42 C.F.R. pt. 416 shall be given written notice of his or her right to an
24 exemption from the mandate on the ground of the employee's sincerely held
25 religious belief in a manner consistent with the rules and procedures prescribed
26 under federal law establishing the exemption. The notice shall detail the
27 employee's due process rights in the event an exemption request is denied and

1 shall be accompanied by a form for the employee to claim the religious exemption
2 and acknowledge receipt of the notice required under this subsection.

3 (6) Any person injured by any act in violation of the provisions of this section shall
4 have a civil cause of action in Circuit Court to enjoin further violations, and to
5 recover the actual damages sustained, including reasonable attorney's fees,
6 together with the costs of the action, statutory damages of one thousand dollars
7 (\$1,000) per day per violation, and punitive damages.

8 ➔Section 4. KRS 214.015 is amended to read as follows:

9 Any health care provider that administers or supervises an immunization authorized
10 under this chapter or otherwise required by the Department for Public Health shall report
11 information about the immunization upon request by, or as required by, the department.
12 The department shall direct the method of reporting and the entity that will receive the
13 report in an administrative regulation promulgated by the department in accordance with
14 KRS Chapter 13A. The department shall not require any reporting of information
15 contrary to the requirements of the federal Health Insurance Portability and
16 Accountability Act of 1996. The department shall not release any personally
17 identifiable information about the immunized person from the immunization reports to
18 a third party or another public agency, as defined in KRS 7.107, without his or her or,
19 if a minor, the parents' or legal guardian's express consent.

20 ➔Section 5. KRS 214.034 is amended to read as follows:

21 Except as otherwise provided in KRS 214.036:

22 (1) All parents, guardians, and other persons having care, custody, or control of any
23 child shall have the child immunized against diphtheria, tetanus, poliomyelitis,
24 pertussis, measles, rubella, mumps, hepatitis B, and haemophilis influenzae disease
25 in accordance with testing and immunization schedules established by regulations
26 of the Cabinet for Health and Family Services. Additional immunizations may be
27 required by the Cabinet for Health and Family Services through the promulgation of

1 an administrative regulation pursuant to KRS Chapter 13A if recommended by the
2 United States Public Health Service or the American Academy of Pediatrics. All
3 parents, guardians, and other persons having care, custody, or control of any child
4 shall also have any child found to be infected with tuberculosis examined and
5 treated according to administrative regulations of the Cabinet for Health and Family
6 Services promulgated under KRS Chapter 13A. The persons shall also have booster
7 immunizations administered to the child in accordance with the regulations of the
8 Cabinet for Health and Family Services.

9 (2) A local health department may, with the approval of the Department of Public
10 Health, require all first-time enrollees in a public or private school within the health
11 department's jurisdiction to be tested for tuberculosis prior to entering school.
12 Following the first year of school, upon an epidemiological determination made by
13 the state or local health officer in accordance with administrative regulations
14 promulgated by the Cabinet for Health and Family Services, all parents, guardians,
15 and other persons having care, custody, or control of any child shall have the child
16 tested for tuberculosis, and shall have any child found to be infected with
17 tuberculosis examined and treated according to administrative regulations of the
18 Cabinet for Health and Family Services. Nothing in this section shall be construed
19 to require the testing for tuberculosis of any child whose parent or guardian is
20 opposed to such testing, and who objects by a written sworn statement to the testing
21 for tuberculosis of the child on religious grounds. However, in a suspected case of
22 tuberculosis, a local health department may require testing of this child.

23 (3) All public or private primary or secondary schools, and preschool programs shall
24 require a current immunization certificate for any child enrolled as a regular
25 attendee, as provided by administrative regulation of the Cabinet for Health and
26 Family Services, promulgated under KRS Chapter 13A, to be on file within two (2)
27 weeks of the child's attendance.

- 1 (4) All public or private primary schools shall require a current immunization
2 certificate for hepatitis B for any child enrolled as a regular attendee in the sixth
3 grade, as provided by administrative regulation of the Cabinet for Health and
4 Family Services, promulgated under KRS Chapter 13A, to be on file within two (2)
5 weeks of the child's attendance.
- 6 (5) For each child cared for in a day-care center, certified family child-care home, or
7 any other licensed facility which cares for children, a current immunization
8 certificate, as provided by administrative regulation of the Cabinet for Health and
9 Family Services, promulgated under KRS Chapter 13A, shall be on file in the
10 center, home, or facility within thirty (30) days of entrance into the program or
11 admission to the facility.
- 12 (6) Any forms relating to exemption from immunization requirements shall be
13 available at public or private primary or secondary schools, preschool programs,
14 day-care centers, certified family child-care homes, or other licensed facilities
15 which care for children.
- 16 **(7) Notwithstanding any provisions of this chapter to the contrary, public and private**
17 **primary or secondary schools and preschool programs shall not promulgate a**
18 **new immunization policy and mandate student, faculty, and staff compliance**
19 **during a school year that has already commenced.**
- 20 ➔Section 6. KRS 214.036 is amended to read as follows:
- 21 (1) Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and
22 214.990 shall be construed to require:
- 23 (a) The testing for tuberculosis or the immunization of any child at a time when,
24 in the written opinion of his or her attending health care provider, such testing
25 or immunization would be injurious to the child's health;
- 26 (b) The immunization of any child whose parents or guardian are opposed to
27 medical immunization against disease, and who object by a written sworn

1 statement to the immunization of such child based on religious grounds or
2 conscientiously held beliefs; or

3 (c) The immunization of any emancipated minor or adult who is opposed to
4 medical immunization against disease, and who objects by a written sworn
5 statement to the immunization based on religious grounds or conscientiously
6 held beliefs.

7 (2) In the event of an epidemic in a given area, the Cabinet for Health and Family
8 Services may require the immunization of all persons within the area of epidemic,
9 against the disease responsible for such epidemic, except that any administrative
10 regulation promulgated pursuant to KRS Chapter 13A, administrative order issued
11 by the cabinet or a local public health department, or executive order issued
12 pursuant to KRS Chapter 39A requiring such immunization shall not include:

13 (a) The immunization of any child or adult for whom, in the written opinion of
14 his or her attending health care provider, such testing or immunization would
15 be injurious to his or her health;

16 (b) The immunization of any child whose parents or guardians are opposed to
17 medical immunization against disease and who object by a written sworn
18 statement to the immunization based on religious grounds or conscientiously
19 held beliefs; or

20 (c) The immunization of any emancipated minor or adult who is opposed to
21 medical immunization against disease, and who objects by a written sworn
22 statement to the immunization based on religious grounds or conscientiously
23 held beliefs.

24 (3) The cabinet shall:

25 (a) Develop and make available on its website~~[Web site]~~ a standardized form
26 relating to exemptions in this section from the immunization requirements;
27 and

- 1 (b) Accept a completed standardized form when submitted.