

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 558

Short Title: Prohibit Mandatory CV19 Vaccinations. (Public)

Sponsors: Representatives Pittman and Kidwell (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

April 15, 2021

A BILL TO BE ENTITLED

AN ACT MAKING IT UNLAWFUL IN THE STATE OF NORTH CAROLINA TO MANDATE VACCINATIONS AGAINST PARTICULAR ILLNESSES, INCLUDING COVID-19; TO REQUIRE PROOF OF VACCINATION OR PROOF OF IMMUNITY AGAINST COVID-19 OR OTHER ILLNESSES; TO DISCRIMINATE IN PUBLIC ACCOMMODATIONS, EMPLOYMENT, OR OTHERWISE ON THE BASIS OF VACCINATION STATUS, PROOF OF VACCINATION, OR PROOF OF IMMUNITY AGAINST COVID-19 AND OTHER ILLNESSES; TO MANDATE FORCED PARTICIPATION IN VACCINATION TRACKING SYSTEMS; AND TO REQUIRE A PATIENT TO WAIVE PRIVACY RIGHTS IN ORDER TO OBTAIN A VACCINATION.

The General Assembly of North Carolina enacts:

PART I. NO VACCINE MANDATES BY EXECUTIVE ORDER, RULES, AGENCY HEADS, OR PUBLIC HEALTH AUTHORITIES DURING DECLARED DISASTERS OR EMERGENCIES

SECTION 1.1.(a) G.S. 166A-19.12 reads as rewritten:

"§ 166A-19.12. Powers of the Division of Emergency Management.

The Division of Emergency Management shall have the following powers and duties as delegated by the Governor and Secretary of Public Safety:

...

(3) Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:

- a. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
- b. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
- c. The procurement and allocation of immunizing agents and prophylactic antibiotics.
- d. The allocation of the Strategic National Stockpile.
- e. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
- f. ~~Immunization procedures.~~ procedures subject to G.S. 166A-19.30(c1).



1 g. The issuance of guidelines for prophylaxis and treatment of exposed
2 and affected persons.

3"

4 **SECTION 1.1.(b)** G.S. 166A-19.30 reads as rewritten:

5 **"§ 166A-19.30. Additional powers of the Governor during state of emergency.**

6 (a) In addition to any other powers conferred upon the Governor by law, and subject to
7 subsection (c1) of this section, during a gubernatorially or legislatively declared state of
8 emergency, the Governor shall have the following powers:

9 ...

10 (b) During a gubernatorially or legislatively declared state of emergency, with the
11 concurrence of the Council of State, and subject to subsection (c1) of this section, the Governor
12 has the following powers:

13 ...

14 (c1) Notwithstanding any provision of law to the contrary, the Governor shall not require
15 or mandate that any person receive a vaccination by operation of executive order. Any person
16 who refuses to receive a vaccination under this section shall not be subject to civil or criminal
17 liability for the refusal of vaccination.

18"

19 **SECTION 1.1.(c)** Subsection (b) of this section applies to executive orders and
20 directives issued on or after the effective date of this act.

21 **SECTION 1.2.(a)** G.S. 150B-19 reads as rewritten:

22 **"§ 150B-19. Restrictions on what can be adopted as a rule.**

23 An agency may not adopt a rule that does one or more of the following:

24 ...

25 (3a) Imposes a mandate or requirement resulting in disciplinary action for a person
26 to receive a vaccination as a condition of the receipt, renewal, or reinstatement
27 of a license by an agency.

28"

29 **SECTION 1.2.(b)** This section applies to proposed rules published in the North
30 Carolina Register and proposed rules posted on the website of the Office of Administrative
31 Hearings on or after October 1, 2021.

32 **SECTION 1.3.** Notwithstanding any provision of Chapter 130A or Chapter 166A of
33 the General Statutes or any other provision of law to the contrary, no public health authority in
34 the State, including the Secretary of the Department of Health and Human Services, the State
35 Health Director, the Commission for Public Health, or the director of any local health department,
36 may issue an order requiring any individual to submit to a COVID-19 vaccination or series of
37 vaccinations if such action is medically contraindicated for the individual, or if receiving the
38 vaccination or series of vaccinations is against the individual's religious or philosophical beliefs,
39 as described in G.S. 130A-157 and G.S. 130A-157.5, as enacted by Section 2.1 of this act. In the
40 case of a minor, if the vaccination or series of vaccinations is against the religious or
41 philosophical beliefs of the parent, guardian, or person in loco parentis, as described in
42 G.S. 130A-157 and G.S. 130A-157.5, as enacted by Section 2.1 of this act, then the public health
43 authority is prohibited from requiring that the minor receive a COVID-19 vaccination or series
44 of vaccinations.

45 **PART II. NO VACCINE MANDATES BY SCHOOLS OR CHILD CARE FACILITIES**

46 **SECTION 2.1.(a)** Article 6 of Chapter 130A of the General Statutes is amended by
47 adding a new section to read:

48 **"§ 130A-157.5. Philosophical exemption.**

49 The moral, philosophical, or other personal beliefs of many citizens are contrary to the
50 immunization requirements contained in this Chapter. All citizens have a right to expect that their
51

1 personal privacy rights, particularly in the area of personal health, will be protected by this State.
2 Therefore, the matter of whether a person chooses for oneself, for one's children, or for anyone
3 for whom that person stands in loco parentis, to receive a vaccine or not to receive it, shall remain
4 a private matter, not to be violated. Because the requirement of a written statement of the moral,
5 philosophical, or personal beliefs and opposition to the immunization requirements would violate
6 those privacy rights, no such statement shall be required of anyone, nor shall the question of
7 whether such an affected person has received an immunization be asked of anyone as a condition
8 of attending any college, university, public or private school (Pre-K through 12), or child care
9 facility."

10 **SECTION 2.1.(b)** This section applies to any vaccination requirement, including a
11 COVID-19 vaccination requirement, imposed upon an adult or a child by a college, university,
12 public or private school (Pre-K through 12), or child care facility on or after the effective date of
13 this act.

14 **PART III. NO IMPLIED CONSENT TO VACCINE TRACKING**

15 **SECTION 3.1.** Part 2 of Article 6 of Chapter 130A of the General Statutes is
16 amended by adding a new section to read:

17 **"§ 130A-158.5. Written, informed consent required for vaccine tracking.**

18 Notwithstanding any provision of this Article, Article 29B of Chapter 90 of the General
19 Statutes, or any other provision of law to the contrary, each system used to track or record
20 information about individuals residing in this State who have received specific vaccinations or a
21 series of specific vaccinations, including the North Carolina Immunization Registry, the
22 statewide health information exchange known as NC HealthConnex, and the North Carolina
23 COVID-19 Vaccine Management System, shall provide for the following:

- 24
- 25 (1) Written, informed consent from each adult and, in the case of a minor, from a
26 parent or guardian of each minor, whose vaccination records and vaccination
27 information are added to the system for the following:
- 28 a. The individual's participation in the system or inclusion in the system
29 of the individual's vaccination record or vaccine status with respect to
30 a specific vaccine or series of vaccines.
- 31 b. The disclosure or sharing of information concerning the individual's
32 vaccination record, vaccine status with respect to a specific vaccine or
33 series of vaccines, or refusal to receive a specific vaccine or series of
34 vaccines. This written, informed consent requirement applies to
35 disclosures and sharing by the system, an individual's health care
36 provider, and an individual's health insurer.
- 37 (2) An option for an adult or, in the case of a minor, a parent or guardian to
38 withdraw previously granted consent that would trigger the deletion of all the
39 individual's vaccination records and other vaccination information from the
40 system and any other files maintained by the State agency responsible for
41 operating the system."
- 42

43 **PART IV. NO VACCINE MANDATES FOR HEALTH CARE PROVIDERS, STAFF, OR**

44 **PATIENTS**

45 **PROTECTION FOR HEALTH CARE PROFESSIONALS**

46 **SECTION 4.1.(a)** Chapter 93B of the General Statutes is amended by adding a new
47 section to read:

48 **"§ 93B-8.1A. Use of vaccination history records.**

- 49 (a) The following definitions apply in this section:
- 50

- 1 (1) Applicant. – A person who makes application for licensure from an
2 occupational licensing board.
3 (2) Board. – An occupational licensing board or a State agency licensing board as
4 defined in G.S. 93B-1.
5 (3) Licensee. – A person who has obtained a license to engage in or represent
6 himself or herself to be a member of a particular profession or occupation.
7 (4) Vaccination. – The act of introducing a product into the body that stimulates
8 a person's immune system to produce immunity to a specific disease,
9 protecting the person from that disease through various methods, including
10 needle injections and mouth or nasal spray.
11 (5) Vaccination history record. – Written or digital documentation containing
12 information about a person's vaccinations as a child or adult, including records
13 from health care providers, local health departments, the North Carolina
14 Immunization Registry, employer, or educational institution.

15 (b) Application. – Notwithstanding any other provision of law, a board shall not deny an
16 applicant a license on the basis of whether the applicant has or has not received a specific
17 vaccination, or a series of vaccinations, as shown in the applicant's vaccination history record. A
18 board shall not require the submission of documents containing medical information for the sole
19 purpose of ascertaining an applicant's vaccination history record as part of an application process
20 for licensure. A board shall not use any documents provided or information gathered tending to
21 show a vaccination history record as the basis to deny the applicant a license.

22 (c) Discipline. – Notwithstanding any other provision of law, a board shall not suspend,
23 revoke, decline to renew, decline to reinstate, or take any disciplinary action against a licensee
24 on the basis of whether the licensee has or has not received a specific vaccination or a series of
25 vaccinations as shown in the licensee's vaccination history record.

26 (d) Remedies. – A person who is denied the issuance, reinstatement, or renewal of a
27 license in violation of this section may bring a civil action in district court against the board who
28 violates the provisions of this section and seek to obtain any of the following remedies:

- 29 (1) Injunctive relief.
30 (2) Affirmative relief.
31 (3) Issuance, renewal, or reinstatement of licensure.
32 (4) Any other relief deemed appropriate."

33 **SECTION 4.1.(b)** This section applies to applications for licensure, renewals,
34 reinstatements, and revocations of licenses and disciplinary actions on or after the effective date
35 of this act.

37 **PROTECTION FOR HOSPITAL PATIENTS AND STAFF**

38 **SECTION 4.2.** Part 2 of Article 5 of Chapter 131E of the General Statutes is
39 amended by adding two new sections to read:

40 **"§ 131E-79.5. No discrimination against hospital patients on the basis of vaccination status.**

41 No hospital licensed under this Article shall refuse to provide any health care services to a
42 patient (i) on the basis of the patient's vaccination history or (ii) because of the patient's refusal
43 to receive a specific vaccination or series of vaccinations or provide proof of immunity to a
44 specific disease.

45 **"§ 131E-79.6. No discrimination against physicians, medical residents, or interns on the** 46 **basis of vaccination status.**

47 (a) No hospital licensed under this Article shall deny, terminate, or suspend a physician's
48 hospital privileges (i) on the basis of the physician's vaccination history or (ii) because of the
49 physician's refusal to receive a specific vaccination or series of vaccinations or provide proof of
50 immunity to a specific disease.

1 **(b)** No hospital licensed under this Article that offers a medical residency program or a
2 clinical program or experience necessary to satisfy a student's degree requirements shall do either
3 of the following:

4 **(1)** Discriminate against a program applicant for an internship or residency or
5 prohibit the applicant's admission, enrollment, or employment as an intern or
6 resident (i) on the basis of the student's vaccination history or (ii) because of
7 the student's, intern's, or resident's refusal to receive a specific vaccination or
8 series of vaccinations or provide proof of immunity to a specific disease.

9 **(2)** Terminate an internship or residency on the basis of an intern's or resident's
10 refusal to receive a specific vaccination or series of vaccinations or provide
11 proof of immunity to a specific disease.

12 **(c)** Any physician whose hospital privileges are denied, terminated, or suspended in
13 violation of this section or any applicant for or participant in a residency program or clinical
14 program or experience offered by a hospital licensed under this Article who is denied admission
15 into or terminated from the program, in violation of this section, may bring a civil action in
16 district court against the hospital that violates the provisions of this section and obtain any one
17 or more of the following remedies:

18 **(1)** An injunction against any further violations.

19 **(2)** Appropriate affirmative relief, including, but not limited to, reinstatement of
20 physician privileges or admission or reinstatement in the residency program
21 or clinical program or experience.

22 **(3)** Any other relief necessary to ensure compliance with this section.

23 **(d)** The court may award reasonable costs, including court costs and attorneys' fees, to
24 the prevailing party in an action brought pursuant to this section."

25 26 **PROTECTION FOR APPLICANTS AND RESIDENTS OF OTHER HEALTH CARE** 27 **FACILITIES**

28 **SECTION 4.3.** Part 2 of Article 1 of Chapter 131D of the General Statutes is
29 amended by adding a new section to read:

30 **"§ 131D-9.5. No discrimination against adult care home residents based on vaccination**
31 **status.**

32 An adult care home licensed under this Article is prohibited from refusing to admit an
33 applicant or provide services to a resident of the facility (i) on the basis of the applicant's or
34 resident's vaccination history or (ii) because of the applicant's or resident's refusal to receive a
35 specific vaccination or series of vaccinations or provide proof of immunity to a specific disease."

36 **SECTION 4.4.** Part 1 of Article 6 of Chapter 131E of the General Statutes is
37 amended by adding a new section to read:

38 **"§ 131E-113.5. No discrimination against nursing home residents based on vaccination**
39 **status.**

40 A nursing home licensed under this Article is prohibited from refusing to admit an applicant
41 or provide services to a resident of the facility (i) on the basis of the applicant's or resident's
42 vaccination history or (ii) because of the applicant's or resident's refusal to receive a specific
43 vaccination or series of vaccinations or provide proof of immunity to a specific disease."

44 45 **PART V. PROTECTION AGAINST EMPLOYMENT DISCRIMINATION FOR** 46 **REFUSAL OF VACCINES**

47 **SECTION 5.1.(a)** Article 3 of Chapter 95 of the General Statutes is amended by
48 adding a new section to read:

49 **"§ 95-28.2A. Discrimination against persons for refusal of vaccines.**

1 (a) As used in this section, the term "employer" means the State and all political
2 subdivisions of the State, public and quasi-public corporations, boards, bureaus, commissions,
3 councils, and private employers.

4 (b) It is an unlawful employment practice if the employer fails or refuses to hire,
5 discharges, penalizes, or otherwise discriminates against an individual with respect to
6 compensation or the terms, conditions, or privileges of employment (i) on the basis of the
7 individual's vaccination history or (ii) because of the individual's refusal to receive a vaccine or
8 provide proof of immunity.

9 (c) An individual who is discharged or otherwise discriminated against, or a prospective
10 employee who is denied employment in violation of this section, may bring a civil action in
11 district court against the employer who violates the provisions of this section and obtain any one
12 or more of the following remedies:

13 (1) An injunction against any further violations.

14 (2) Appropriate affirmative relief, including, but not limited to, reinstatement of
15 employment with back pay plus ten percent (10%) interest.

16 (3) An order of reinstatement without loss of position, seniority, or benefits.

17 (4) An order directing the employer to offer employment to the prospective
18 employee.

19 (5) Any other relief necessary to ensure compliance with this section.

20 (d) The court may award reasonable costs, including court costs and attorneys' fees, to
21 the prevailing party in an action brought pursuant to this section.

22 (e) The provisions of this section shall prevail over any conflicting provisions in a general
23 law, present or future, to the extent of the conflict, but if any such general law contains a specific
24 exemption from this section, including a specific reference to this section, such general law shall
25 prevail, but only to the extent of the exemption."

26 **SECTION 5.1.(b)** This section applies to employers, employees, and prospective
27 employees on and after the effective date of this act.

29 **PART VI. NO VACCINE MANDATES TIED TO PUBLIC SPACES**

30 **SECTION 6.1.** Chapter 99D of the General Statutes is amended by adding a new
31 section to read:

32 **"§ 99D-1.5. No discrimination in public spaces on the basis of vaccination status.**

33 (a) It is a discriminatory practice for a person to deny any individual the full and equal
34 enjoyment of goods, services, privileges, advantages, facilities, and public spaces on the basis of
35 their vaccination or immunity status. This subsection shall be construed to prohibit all of the
36 following:

37 (1) Providing any disposition, service, financial aid, or benefit to an individual
38 that is different, or is provided in a different manner from that provided to
39 other members of the general public.

40 (2) Subjecting any individual to segregation or separate treatment in any matter
41 related to that individual's receipt of any disposition, service, financial aid, or
42 benefit provided to other members of the general public.

43 (3) Restricting an individual in any way in the enjoyment of any advantage or
44 privilege enjoyed by others receiving any disposition, service, financial aid,
45 or benefit provided to other members of the general public.

46 (4) Treating an individual differently from others in determining whether that
47 individual satisfies any admission, enrollment, quota, eligibility, membership,
48 or other requirement or condition that individuals are required to meet in order
49 to be provided any disposition, service, financial aid, or benefit available to
50 other members of the general public.

1 (5) Denying an individual an opportunity to participate in a program through the
2 provision of service or otherwise afford that individual an opportunity to do
3 so that is different from that afforded to other members of the general public.

4 (b) Notwithstanding any other provision of law to the contrary, an individual may not be
5 required to take, be administered, or otherwise receive or disclose whether the individual has
6 taken, been administered, or otherwise received a COVID-19 vaccination as a condition for any
7 of the following:

8 (1) Entry into any business or public space.

9 (2) Receipt of any service or good.

10 (3) Enjoyment of any facilities, privileges, advantages, or public spaces.

11 (c) Neither the State of North Carolina nor any agency or subdivision of the State of
12 North Carolina shall create, impose, or allow to be imposed any device or method of
13 identification that might be considered to be a vaccine passport which would be required of any
14 citizen seeking to travel, to enter any public space or private property, or to do any business
15 within the State of North Carolina.

16 (d) As used in this section, "public space" includes all of the following:

17 (1) Places of public accommodation.

18 (2) Any building or space, whether indoors or outdoors, that is owned, leased,
19 operated, occupied, or otherwise used by a public body.

20 (3) Any other building or space, whether indoors or outdoors, that is generally
21 open to the public."

23 **PART VII. NO VACCINE MANDATES BY GROUP HEALTH BENEFIT PLANS OR** 24 **LIFE INSURANCE PLANS**

25 **SECTION 7.1.(a)** G.S. 58-3-25 is amended by adding a new subsection to read:

26 "(d) No insurer shall refuse to insure or refuse to continue to insure an individual, to limit
27 the amount, extent, or kind of coverage available to an individual, or to charge an individual a
28 different rate for the same coverage, solely because of an individual's vaccination status."

29 **SECTION 7.1.(b)** Part 7 of Article 50 of Chapter 58 of the General Statutes is
30 amended by adding a new section to read:

31 "§ 58-50-286. Prohibitions on use of health care provider patient vaccination status.

32 An insurer offering a health benefit plan in this State shall not use the vaccination status of
33 any patients of a health care provider for any of the following:

34 (1) As a qualification or requirement for entering into a contract with the health
35 care provider.

36 (2) As a basis for terminating a contract with the health care provider.

37 (3) As a factor in the provision of financial incentives for a health care provider.

38 (4) As a factor in the imposition of penalties, including financial penalties, on a
39 health care provider."

40 **SECTION 7.1.(c)** Article 51 of Chapter 58 of the General Statutes is amended by
41 adding a new section to read:

42 "§ 58-51-2. Prohibition of the use of insured vaccination status.

43 No insurer offering a group health plan on the large group market, as defined in
44 G.S. 58-68-25, shall use the vaccination status of any insured as a factor in the rating of a group
45 health plan that provides coverage in this State."

46 **SECTION 7.1.(d)** This section becomes effective October 1, 2021, and applies to
47 contracts issued, renewed, or amended on or after that date.

49 **PART VIII. NO VACCINE MANDATES TIED TO DRIVING PRIVILEGES OR THE** 50 **ISSUANCE OF STATE IDENTIFICATION CARDS**

1 **SECTION 8.1.** Article 3 of Chapter 20 of the General Statutes is amended by adding
2 a new section to read:

3 **"§ 20-43.5. Vaccination records shall not be collected or required by Division;**
4 **discrimination prohibited.**

5 (a) The Division shall not collect or maintain vaccination information or connect
6 Division records to the vaccination information of a person.

7 (b) The Division shall not require a person to provide vaccination information as a
8 condition of obtaining an identification card, a learner's permit, or a drivers license.

9 (c) Any business or governmental entity that requires a person to present a
10 Division-issued identification card, learner's permit, or drivers license to verify identification
11 may not require a person to provide vaccination information or proof of immunity, and the
12 business or governmental entity may not discriminate, deny services or access, or otherwise
13 penalize a person for not receiving a vaccination or providing proof of immunity."
14

15 **PART IX. PROTECTION OF PATIENT PRIVACY RIGHTS**

16 **SECTION 9.1.** No health care provider authorized to administer a COVID-19
17 vaccination in this State may require a patient, as a condition of receiving the vaccination, to
18 agree, orally or in writing, to any of the following:

- 19 (1) Permission to use or disclose the patient's protected health information, as
20 defined in 45 C.F.R. § 160.103, or personal identifying information for
21 marketing or other business purposes.
- 22 (2) Waiver of any of the rights guaranteed under sections 261 through 264 of the
23 federal Health Insurance Portability and Accountability Act of 1996, P.L.
24 104-191, as amended, and any federal regulations adopted to implement these
25 sections, as amended, except for what is necessary to safely administer the
26 vaccination to the patient and seek reimbursement for the cost of such
27 administration from a third-party payor.
28

29 **PART X. SEVERABILITY CLAUSE**

30 **SECTION 10.1.** If any provision of this act or its application is held invalid, the
31 invalidity does not affect other provisions or applications of this act that can be given effect
32 without the invalid provision or application, and to this end, the provisions of this act are
33 severable.
34

35 **PART XI. EFFECTIVE DATE**

36 **SECTION 11.1.** Except as otherwise provided, this act is effective when it becomes
37 law.