

HOUSE BILL NO. HB1003

COVID-19 discriminatory practices-prohibition-2.

Sponsored by: Representative(s) Gray, Bear, Greear, Haroldson, Heiner, Jennings, Knapp, Neiman, Ottman, Rodriguez-Williams and Styvar and Senator(s) Cooper, Dockstader, Driskill, French, Hicks, Hutchings, McKeown, Salazar, Schuler and Steinmetz

A BILL

for

1 AN ACT relating to miscellaneous offenses; prohibiting
2 discrimination based on COVID 19 vaccination status as
3 specified; prohibiting discrimination based on COVID 19
4 vaccination status in health insurance as specified;
5 prohibiting a requirement of COVID 19 vaccinations in order
6 to receive or access benefits, services or educational
7 opportunities as specified; providing a criminal penalty;
8 authorizing civil remedies; providing definitions; making
9 conforming amendments; and providing for an effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

1 **Section 1.** W.S. 26-20-901 and 35-4-140 are created to
2 read:

3

4

ARTICLE 9

5

COVID-19 HEALTH INSURANCE LIMITATIONS

6

7

26-20-901. Immunizations; prohibited actions;

8

insurers and insurer ratings; penalties.

9

10 (a) As used in this section:

11

12 (i) "COVID-19" means as defined by W.S.

13 1-1-141(a)(ii);

14

15 (ii) "COVID-19 vaccination" means as defined in

16 W.S. 35-4-140(a)(iii);

17

18 (iii) "COVID-19 vaccination status" means as

19 defined in W.S. 35-4-140(a)(iv).

20

21 (b) An insurer providing a group or individual

22 policy, contract or plan for health insurance shall not use

23 the COVID-19 vaccination status of a person as a basis to

1 reject, deny, limit, cancel, refuse to renew, increase the
2 premiums for, limit the amount, extent or kind of coverage
3 available to or otherwise adversely affect eligibility or
4 coverage for the group or individual health policy,
5 contract or plan for health insurance.

6

7 (c) An insurer providing a group or individual
8 policy, contract or plan for health insurance shall not use
9 the COVID-19 vaccination status of a person as a
10 qualification or requirement for contracting with the
11 person's health care provider or as a basis for terminating
12 a contract with the person's health care provider.

13

14 (d) An insurer providing a group or individual
15 policy, contract or plan for health insurance shall not do
16 any of the following regarding the administration of
17 COVID-19 vaccinations to covered persons:

18

19 (i) Provide financial or other incentives to a
20 participating health care provider based upon attaining a
21 certain immunization administration rate for COVID-19;

22

1 (ii) Impose a financial or other penalty on a
2 participating health care provider who does not attain a
3 certain immunization administration rate for COVID-19.

4
5 (e) The COVID-19 vaccination status of a person
6 covered by a group or individual policy, contract or plan
7 for health insurance shall not be used as a factor in the
8 rating of a group or individual policy, contract or plan
9 for health insurance in this state.

10
11 (f) An insurer issuing a group or individual policy,
12 contract or plan for health insurance in violation of this
13 section is subject to the penalties and liabilities imposed
14 by W.S. 35-4-140.

15
16 **35-4-140. Discrimination based on COVID-19**
17 **vaccination status prohibited; penalties; civil remedies.**

18
19 (a) As used in this section:

20
21 (i) "COVID-19" means as defined by W.S.
22 1-1-141(a)(ii);

23

1 (ii) "COVID-19 immunity passport" means a
2 document, digital record or software application that
3 evidences that a person has received a COVID-19 vaccination
4 or that a person has recovered from an active COVID-19
5 infection;

6

7 (iii) "COVID-19 vaccination" means any vaccine
8 that is marketed to prevent COVID-19 or any vaccine that is
9 marketed to diminish or decrease the symptoms of COVID-19;

10

11 (iv) "COVID-19 vaccination status" means
12 evidence of whether a person has received one (1) or more
13 doses of a COVID-19 vaccine;

14

15 (v) "Health care" means as defined by W.S.
16 35-22-402(a)(viii);

17

18 (vi) "Public accommodation" means a private
19 entity that owns, leases, leases to or operates a place of
20 public accommodation, as that term is defined in 28 C.F.R.
21 § 36.104 as of October 1, 2021.

22

23 (b) No person shall:

1

2 (i) Refuse, withhold from or deny to a person
3 any services, goods, facilities, advantages and privileges
4 that are public in nature or that invite the patronage of
5 the public, or any licensing, employment opportunities,
6 educational opportunities or health care, based on the
7 person's COVID-19 vaccination status or whether a person
8 has a COVID-19 immunity passport; or

9

10 (ii) Ask a person or inquire into a person's
11 COVID-19 vaccination status or ask or inquire whether a
12 person has a COVID-19 immunity passport in order for the
13 person to access any services, goods, facilities,
14 advantages and privileges that are public in nature or that
15 invite the patronage of the public, or any licensing,
16 employment opportunities, educational opportunities or
17 health care.

18

19 (c) No public accommodation shall exclude, limit,
20 segregate, refuse to serve or otherwise discriminate
21 against a person based on the person's COVID-19 vaccination
22 status or based on whether the person has a COVID-19
23 immunity passport.

1

2 (d) Any person or public accommodation that violates
3 subsection (b) or subsection (c) of this section shall be
4 guilty of a misdemeanor punishable by imprisonment not to
5 exceed six (6) months, a fine not to exceed seven hundred
6 fifty dollars (\$750.00), or both.

7

8 (e) Notwithstanding W.S. 1-1-141 and 35-4-114, any
9 person aggrieved by a discriminatory practice prohibited by
10 subsection (b) or subsection (c) of this section may bring
11 a civil cause of action against the violator for
12 compensatory damages and injunctive relief or other
13 equitable relief.

14

15 **Section 2.** W.S. 1-1-141(a)(iii)(intro), 14-4-116(b),
16 21-4-309(a), 27-11-113, 35-4-113(c), 35-4-114(a), (d) and
17 by creating a new subsection (f) and 35-4-139 are amended
18 to read:

19

20 **1-1-141. COVID-19 exposure and illness; assumption of**
21 **the risk.**

22

23 (a) As used in this section:

1

2 (iii) "COVID-19 liability claim" excludes a
3 cause of action filed under W.S. 35-4-140 (e) and means a
4 cause of action for:

5

6 **14-4-116. Mandatory immunizations for children**
7 **attending child caring facilities.**

8

9 (b) Except as provided in W.S. 35-4-140, all persons
10 over eighteen (18) months old attending or transferring
11 into a child caring facility are required to be completely
12 immunized in a similar manner to W.S. 21-4-309.

13

14 **21-4-309. Mandatory immunizations for children**
15 **attending schools; exceptions.**

16

17 (a) Except as prohibited by W.S. 35-4-140, any person
18 attending, full or part time, any public or private school,
19 kindergarten through twelfth grade, shall within thirty
20 (30) days after the date of school entry, provide to the
21 appropriate school official written documentary proof of
22 immunization. For purposes of this section, documentary
23 proof of immunization is written certification by a private

1 licensed physician or his representative or by any public
2 health authority, that the person is fully immunized.
3 Documentation shall include month, day and year of each
4 required immunization received against vaccine preventable
5 disease as designated by the state health authority. No
6 school administrator shall permit a student to attend
7 school for more than thirty (30) calendar days without
8 documentary proof of immunization. If immunization
9 requires a series of immunizations over a period of more
10 than thirty (30) calendar days, the child shall be
11 permitted to attend school while receiving continuing
12 immunization if the school administrator receives written
13 notification by a private licensed physician or his
14 representative or by a public health official, specifying a
15 written schedule for necessary immunization completion
16 within the medically accepted time period. Waivers shall
17 be authorized by the state or county health officer upon
18 submission of written evidence of religious objection or
19 medical contraindication to the administration of any
20 vaccine. In the presence of an outbreak of vaccine
21 preventable disease as determined by the state or county
22 health authority, school children for whom a waiver has
23 been issued and who are not immunized against the occurring

1 vaccine preventable disease shall be excluded from school
2 attendance for a period of time determined by the state or
3 county health authority, but not suspended from school as
4 provided in W.S. 21-4-305. Children excluded from school
5 attendance under this section shall not be counted in the
6 aggregate number of pupils absent as defined in W.S.
7 21-13-101(a)(i).

8

9 **27-11-113. Physical examination of employees;**
10 **religious exemption.**

11

12 Any employer may require an employee to submit to a
13 physical examination before employment or at any time
14 during employment, and shall provide for a physical
15 examination, as deemed necessary, due to exposure or
16 contact with hazards or environmental conditions which may
17 be detrimental to the health of the employee. Nothing in
18 this or any other provision of this act shall be deemed to
19 authorize or require medical examination, immunization or
20 treatment for those who object thereto on religious
21 grounds, except where such is necessary for the protection
22 of the health or safety of others, except that no
23 immunization that violates W.S. 35-4-140 shall ever be

1 required. The results of such examinations shall be
2 furnished only to the department, the employer and, upon
3 request, to the employee and the employee's physician. The
4 employer shall pay for such examination.

5

6 **35-4-113. Treatment when consent is not available;**
7 **quarantine.**

8

9 (c) Except as prohibited by W.S. 35-4-140, if a
10 person withholds or refuses consent for himself, a minor or
11 other incompetent when the vaccination or medical treatment
12 is reasonably needed to protect the health of others from a
13 disease carrying the risk of death or disability, then the
14 person for whom the vaccination or medical treatment is
15 refused may be quarantined by the state health officer.

16

17 **35-4-114. Immunity from liability.**

18

19 (a) Except as provided in subsection (f) of this
20 section, during a public health emergency as defined by
21 W.S. 35-4-115(a)(i) and subject to subsection (d) of this
22 section, any health care provider or other person,
23 including a business entity, who in good faith follows the

1 instructions of a state, city, town or county health
2 officer or who acts in good faith in responding to the
3 public health emergency is immune from any liability
4 arising from complying with those instructions or acting in
5 good faith. This immunity shall apply to health care
6 providers who are retired, who have an inactive license or
7 who are licensed in another state without a valid Wyoming
8 license and while performing as a volunteer during a
9 declared public health emergency as defined by W.S.
10 35-4-115(a)(i). This immunity shall not apply to acts or
11 omissions constituting gross negligence or willful or
12 wanton misconduct.

13

14 (d) Except as provided in subsection (f) of this
15 section, any health care provider, person or entity shall
16 be immune from liability for damages in an action involving
17 a COVID-19 liability claim unless the person seeking
18 damages proves that the health care provider, person or
19 entity took actions that constitutes gross negligence or
20 willful or wanton misconduct. Nothing in this subsection
21 shall be construed to limit any other immunity available
22 under law, including the immunity provided in subsection

1 (a) of this section. As used in this subsection, "COVID-19
2 liability claim" means as defined by W.S. 1-1-141(a)(iii).

3

4 (f) A person who violates W.S. 35-4-140 shall not be
5 entitled to the immunity provided by this section.

6

7 **35-4-139. Childhood immunizations.**

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9 The department of health through rule and regulation shall
10 develop and implement a program to provide vaccines for all
11 children of Wyoming residents who are not federally vaccine
12 eligible children as defined in 42 U.S.C. § 1396s(b)(2) or
13 subsequent similar federal enactment. Except as prohibited
14 by W.S. 35-4-140, vaccines provided pursuant to this
15 section shall include those determined to be necessary for
16 the healthy development of children and prescribed in rules
17 and regulations of the department based on recommendations
18 from an advisory group which the department director shall
19 appoint consisting of a representative of an organization
20 representing physicians licensed in Wyoming, at least one
21 (1) pediatric physician licensed in Wyoming and at least
22 one (1) family physician licensed in Wyoming.

23

1 **Section 3.** This act is effective immediately upon
2 completion of all acts necessary for a bill to become law
3 as provided by Article 4, Section 8 of the Wyoming
4 Constitution.

5

6

(END)