

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/SB 252 — Protection from Discrimination Based on Health Care Choices

by Fiscal Policy Committee and Senators Burton and Perry

The bill (Chapter 2023-43, L.O.F.) amends several statutes in order to prohibit mask mandates; mandates on emergency use authorization (EUA) vaccinations, messenger ribonucleic acid (mRNA) vaccinations, and COVID-19 vaccinations; and COVID-19 testing mandates in educational institutions, business entities, and governmental entities. The bill prohibits these entities and institutions from requiring proof of a vaccination with one of the specified types of vaccinations, post-infection recovery from COVID-19, or a COVID-19 test to gain access to, entry upon, or service from the entity or institution.

The bill also prohibits business and governmental entities from certain employment practices based on an employee's, or a potential employee's, vaccination or COVID-19 post-infection status or the refusal to take a COVID-19 test. The bill specifies that hospitals and ambulatory surgical centers may not discriminate in the provision of health care to a patient based solely on that patient's vaccination status with the COVID-19 vaccine. The bill's provisions relating to mRNA vaccines are repealed on June 1, 2025.

Additionally, the bill prohibits business entities, governmental entities, and educational institutions from requiring a person to wear a mask, a face shield, or any other facial covering that covers the nose and mouth or denying a person access to, entry upon, service from, or admission to such entity or institution or otherwise discriminating against any person based on his or her refusal to wear a mask, face shield, or other facial covering. The bill provides exceptions to these prohibitions for health care providers and practitioners, as long as the provider or practitioner meets specific requirements established by the bill, and for circumstances in which a mask or facial covering is required safety equipment.

Business entities and governmental entities that violate the bill's mask or vaccine mandate prohibitions are subject to discipline by the Department of Legal Affairs (DLA) while educational institutions are subject to discipline by the Department of Health (DOH). Such discipline may include fines of up to \$5,000 for each violation.

The bill establishes requirements for mandating masks in health care settings. Effective upon the bill becoming a law, the bill requires the DOH and the Agency for Health Care Administration (AHCA) to jointly develop standards for the use of facial coverings in such settings by July 1, 2023, and requires each health care provider and health care practitioner who operates or manages an office to establish policies and procedures for facial coverings by August 1, 2023, that are consistent with the standards adopted by the DOH and the AHCA if they require any individual to wear a mask.

The bill prohibits governmental entities and educational institutions from adopting, implementing, or enforcing an international health organization's guidelines unless authorized by state law, rule, or executive order issued pursuant to a declared emergency.

The bill also creates and amends several statutes related to the provision of health care for COVID-19 including:

- Prohibiting a hospital from interfering with COVID-19 treatment alternatives that are recommended by a health care practitioner with privileges at the hospital;
- Requiring a health care practitioner to obtain specified informed consent from a patient before prescribing any medication for the treatment of COVID-19 to the patient; and
- Prohibiting a pharmacist from being disciplined for properly dispensing medications prescribed for the treatment of COVID-19.

Vote: Senate 29-6; House 84-31