

Proposed Amendment to SB155-FN

VIII. It is the policy of the State of New Hampshire to safeguard medical privacy and liberty, which includes protecting the public from coercive COVID-19 vaccination. It is the policy of the State of New Hampshire to prohibit all forms of discrimination. This section is intended to further these policies. The State of New Hampshire and all of its government entities, and customers of companies contracting with or otherwise doing business with or receiving public funds from the State of New Hampshire or any of its government entities, are prohibited from requiring any person to receive the COVID-19 vaccine or to possess a COVID-19 immunity passport, immunity pass, or any other documentation for certifying vaccination or immunity status. The persons and entities subject to this section are prohibited from discriminating against persons based on non-receipt of the COVID-19 vaccine or failure to possess a COVID-19 immunity passport, immunity pass, or any other documentation for certifying vaccination or immunity status.

1. Definitions.

(a) "Company" means any corporation, limited liability corporation, nonprofit corporation, partnership, limited partnership, limited liability partnership, business trust, association, joint venture, domestic or foreign sole proprietorship, other domestic or foreign entity or business association, or similar organization, including without limitation any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of such an entity or business association.

(b) "Discrimination" means a company or employer subjecting any person to refusal to hire, failure to promote, reassignment with significantly different responsibilities, a reduction in pay, a significant change in benefits, or employment termination, or refusal to allow any person to enter or patronize an establishment, on the basis of such person's vaccination or immunity status or related documentation, or because such person refuses to be vaccinated against COVID-19 due to a medical contraindication or for reasons of conscience or other personal reasons, including religious or philosophical beliefs.

(c) "Employer" means any person employing an employee or acting directly or indirectly in the interest of an employer in relation to an employee.

(d) "Governmental entity" means any unit of state or local government including, but not limited to, the governor, state agencies, counties, cities, towns, political subdivisions, boards, departments, commissions, and special districts, as well as their agents, contractors, and employees.

(e) "Direct threat" means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a "direct threat" shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include: (1) The duration of the risk; (2) The nature and severity of the potential harm; (3) The likelihood that the potential harm will occur; and (4) The imminence of the potential harm.

2. Applicability.

(a) The State of New Hampshire and all of its government entities may not enter into a contract or give a loan, grant, or any other disbursement of taxpayer money to a company that requires a person to receive the COVID-19 vaccine or to possess a COVID-19 immunity passport, immunity pass, or any other documentation for certifying vaccination or immunity status, and further may not discriminate against any person based on non-receipt of the COVID-19 vaccine or failure to possess a COVID-19 immunity passport, immunity pass, or any other documentation for certifying vaccination or immunity status.

(b) An employer or company that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money from the State of New Hampshire or any government entity may not require that any person receive the COVID-19 vaccine or possess a COVID-19 immunity passport, immunity pass, or any other documentation for certifying vaccination or immunity status, and further may not discriminate against any person based on non-receipt of the COVID-19 vaccine or failure to possess a COVID-19 immunity passport, immunity pass, or any other documentation for certifying vaccination or immunity status.

(c) An employer or company that violates this section is in breach of its contract with the State of New Hampshire or government entity, rendering the contract voidable by the State of New Hampshire or government entity.

3. Exemption. Medical facilities treating COVID-19 patients may be exempt from this section where a direct threat exists that cannot be eliminated or reduced by reasonable accommodation.

4. Construction and severability. The provisions of this section shall be construed liberally to accomplish the policies expressed herein. If any provision of this section or the application thereof to any employer, company, person, or entity is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.