

SENATE MEDICAL AFFAIRS COMMITTEE

Summary: S. 975 (as amended) – Vaccines and public health

SECTION 1. Citation as “Medical Freedom Act”

SECTION 2. Chapter 17 of Title 16

16-17-780: Novel vaccines, gene therapy

- Definitions
 - “Novel vaccine” – any of the following:
 - Obtained Emergency Use Authorization
 - Otherwise unapproved by FDA
 - Licensed for use <10 years
 - “Gene therapy” – technique using insertional mutation of DNA sequences or utilization of mRNA-directed protein synthesis
- Unlawful for a business, non-profit, school, employers to mandate either of the above
- Penalties
 - First offense – misdemeanor
 - Fined up to \$1000, or
 - Imprisoned up to one year, or
 - Both
 - Second offense – misdemeanor
 - Fined up to \$2500, or
 - Imprisoned up to three years, or
 - Both
 - Third/subsequent offense – felony
 - Fined up to \$5000, or
 - Imprisoned up to five years, or
 - Both

SECTION 3. Chapter 1 of Title 41

41-1-55: Definitions, prohibitions

- Definitions
 - “Agent” – supervisor or employee’s designee
 - “Employer” – for-profit, non-profit, State/subdivisions employing one or more
 - “Employee” – any person employed, above
 - “Gene therapy” – see SECTION 2
 - “Novel vaccine” – see SECTION 2
 - “Vaccine” – suspension of microorganisms/proteins administered by injection
- Prohibitions
 - Employer may not react adversely to any (prospective) employee refusing novel vaccine or gene therapy, as defined above
 - No employer requirement to receive vaccine not mandated by DPH
 - Aggrieved employees entitled to unemployment benefits, lost wages, damages, court and legal fees, etc.
 - Employer willful/malicious discrimination liable for treble punitive damages

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Summary: S. 975 (as amended) – Vaccines and public health (cont.)

SECTION 4. Chapter 43 of Title 40

40-43-86: Conditions for pharmacist refusal to fill prescription

- Strikes blanket refusal text
- Creates new conditions for refusal
 - Contradiction to patient records
 - Patterns of narcotic abuse
 - Order is incomplete/unclear
 - Religious/moral/ethical reasons per 44-139-xx (Med. Ethics and Diversity Act)
- May not deny “right to try” prescriptions defined in 44-137-10

SECTION 5. Chapter 1 of Title 44

44-1-100: Strikes DPH ability to request assistance from law enforcement in enforcing orders; **local law enforcement may assist**

SECTION 6. Chapter 4 of Title 44

44-4-130: Definitions

- “Approved pharmaceutical agent” –
 - Approved by FDA
 - Prevents infection, reduces transmission, decreases morbidity and mortality
 - Not a novel medical treatment
- “Gene therapy” – see SECTION 2
- “Novel medical treatment” – see “Novel vaccine” in SECTION 2
- “Qualifying health condition” – changes to definition:
 - Strikes “natural disaster”
 - Strikes “widespread illness, or serious impact to the agricultural sector, including food supply”
 - Adds “incidents of permanent or long-term disability”
- “Vaccine” – see SECTION 3

NOTE ON DISTINCTION OF SIMILAR TERMS: "Isolation" and "quarantine" mean the compulsory physical separation (including the restriction of movement or confinement) of individuals and/or groups believed to have been exposed to or known to have been infected with a contagious disease from individuals who are believed not to have been exposed or infected, in order to prevent or limit the transmission of the disease to others; if the context so requires,

"quarantine" means compulsory physical separation, including restriction of movement, of populations or groups of healthy people who have been potentially exposed to a contagious disease, or to efforts to segregate these persons within specified geographic areas.

"Isolation" means the separation and confinement of individuals known or suspected (via signs, symptoms, or laboratory criteria) to be infected with a contagious disease to prevent them from transmitting disease to others.

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SECTION 7. Chapter 4 of Title 44

44-4-330: Modifies “pharmaceutical agents” with “approved”

SECTION 8. Chapter 4 of Title 44

44-4-500: DPH authorization to act during public health emergency

- Adds modifier, “for which the public health emergency has been called”
- Adds modifier “confirmed” to “cases” re: above infectious disease

SECTION 9. Chapter 4 of Title 44

44-4-510: DPH performance of voluntary exams/tests

- Adds modifier, “for which the public health emergency has been declared”
- ~~Must be “FDA approved for accurate detection...”~~

SECTION 10. Chapter 4 of Title 44

44-4-520: Vaccinations and treatments

- Scope expanded to “vaccinations and treatments”
- Will require recipients to “provide informed consent”
- Must be “an approved medical treatment”
- ~~Cannot include gene therapy~~

SECTION 11. Chapter 4 of Title 44

44-4-530: Isolation or quarantine

- Adds modifier, “who have been diagnosed with or exposed to the contagious disease for which the public health emergency was declared”
- Limits asymptomatic quarantined to five days confinement
- Release of isolated individuals – sooner of:
 - Being no longer symptomatic
 - Within 10 days of symptom onset
- Recovered individuals must not be separated from quarantined/isolated family members
- Penalties for violating isolation/quarantine reduced from felony to misdemeanor
 - Fine of no more than \$200 (reduced from \$1000), or
 - Imprisonment of not more than 30 days
- Strikes references –
 - Only DHEC (DPH) has authority to enter isolated/quarantined premises
 - Arrest of individuals not the subject of an order for violation of the order

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SECTION 12. Chapter 4 of Title 44

44-4-540: Authority to isolate/quarantine

- Strikes reference to DHEC (DPH) having authority to isolate/quarantine
- Strikes reference to “extraordinary circumstance” as justification for relief hearing
- Requires hearing to be held within 48 hours
- Removes the court’s latitude to consolidate individual claims

SECTION 13. Chapter 4 of Title 44

44-4-570: Other references to authority to act

- Strikes requirements on health providers to vaccinate, treat, examine or test individuals as condition of licensure, authorization or continued function
- Strikes civil liability immunity for emergency medical examiners appointed pursuant to this section except in most extreme cases, i.e. “reckless disregard”

SECTION 14. Severability

SECTION 15. This act takes effect 7/1/2024 (*correction to date necessary*).