

MOHAVE COUNTY REQUEST FOR BOARD ACTION FORM

FROM: Supervisor Travis J. Lingenfelter
CONTACT/EXT: 4722
DATE: 25-Aug-2021
BOS MEETING DATE: 07-Sep-2021

FORMAL ACTION X
CONSENT
RESOLUTION
OTHER
INFORMATION ONLY

SUMMARIZE THE ISSUE & DESIRED ACTION CLEARLY/ATTACH BACKUP MATERIAL:

Discussion and Possible Action RE: Approve the adoption of BOS Resolution No. 2021-162, declaring the sentiments of the Mohave County Board of Supervisors concerning the protection of individual healthcare freedom of choice.

RECOMMENDED MOTION:

Discussion and Possible Action RE: Approve the adoption of BOS Resolution No. 2021-162, declaring the sentiments of the Mohave County Board of Supervisors concerning the protection of individual healthcare freedom of choice.

Reviewed and Approved By:

County Attorney Human Resources Finance County Manager

Board Action Taken:

Approved as Requested No Action Taken Disapproved
Continued to _____ Approved with the following changes:

Acknowledged receipt and referred to: _____

Filing Information and Retrieval

Filed Bid _____	Filed Agreement _____
BOS Resolution _____	Filed Yearly Correspondence _____
Filed Petition _____	Filed Dedication _____
Filed Land Sold _____	Filed Land Acquired _____
Filed Franchise _____	ID Resolution _____
Filed Improvement District _____	Filed Other _____

Date Routed:
Additional Information:

XC:

RESOLUTION NO. 2021-162
HEALTHCARE FREEDOM & PRIVACY
AGAINST MANDATORY COVID-19 VACCINATION REQUIREMENTS

WHEREAS, this Resolution shall serve as an adopted statement in support of individual healthcare freedom of choice and in support of the protection of private healthcare information, and is not to suggest that a COVID-19 vaccination should or should not be taken by any person; and

WHEREAS, the Board of Supervisors ("BOS") of Mohave County, Arizona ("County"), is the executive body of County government and the legislative body of County government pursuant to the provisions of Arizona Revised Statutes Title 11, Chapter 2; and

WHEREAS, the Mohave County Board of Supervisors recognizes the Constitution of the United States of America ("U.S. Constitution") as the supreme law of the United States of America; and

WHEREAS, the right to healthcare privacy is not mentioned in the U.S. Constitution but the U.S. Supreme Court has stated that several of the amendments create this right, including the 4th Amendment which states: *'The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated'*; and

WHEREAS, the Constitution of the State of Arizona ("Arizona Constitution") is the supreme law of the State of Arizona; and

WHEREAS, Article 2, Section 8 of the Arizona Constitution also states: *'No person shall be disturbed in his private affairs, or his home invaded, without authority of law'*; and

WHEREAS, the Board of Supervisors passed Mohave County Resolution No. 2021-017 on January 19, 2021, declaring Mohave County, Arizona as a Constitutional Rights Sanctuary County that fully supports and defends the U.S. Constitution, the Arizona Constitution, and the individual freedoms and liberties contained therein; and

WHEREAS, it is an unreasonable seizure of a person for the government to require a COVID-19 vaccination for all persons regardless of their age, medical status, physical condition, or other factors; and

WHEREAS, it is an unreasonable invasion of privacy, except in certain healthcare-related exceptional circumstances, to require a person to disclose the status of his or her COVID-19 immunization status for employment, education, access to events, or engagement in commercial and recreational activities; and

WHEREAS, certain political sub-divisions of the State of Arizona such as the City of Tucson, Arizona, are attempting to mandate COVID-19 vaccinations on all of their employees in violation of Arizona state law; and

WHEREAS, so called COVID-19 "passports" are starting to be used in certain other states and localities such as the Excelsior Pass Plus being used in New York State; and

WHEREAS, as a response to potential COVID-19 immunization passport requirements, the Fifty-fifth Arizona Legislature, in Laws 2021, First Regular Session, Chapter 409, passed SB1824: health; budget reconciliation; 2021-2022, which was signed into Arizona law by Governor Doug Ducey, and which requires Arizona employers to provide reasonable accommodation to employees with sincerely held religious beliefs, practices, or observances that prevent the employee from taking the COVID-19 vaccination unless the accommodation would pose an undue hardship and more than a de minimus cost to the operation of the employer's business. Additionally, the law prohibits state and political subdivisions from (1) establishing a COVID-19 passport, (2) requiring any person to be forcibly vaccinated for COVID-19, and (3) requiring a business to obtain proof of the COVID-19 vaccination status prior to entering a business. The law also makes immunizations for which the US Food and Drug Administration Emergency Use Authorization has been issued not required for Arizona school attendance. The BOS supports these measures by the Arizona Legislature being signed into law by Arizona Governor Doug Ducey; and

WHEREAS, the Arizona Attorney General issued Opinion I21-007 (<https://azag.gov/sites/default/files/2021-08/I21-007.pdf>) stating that employers who mandate vaccination must provide reasonable accommodations to employees who cannot obtain the COVID-19 vaccine due to a disability or a sincerely-held religious belief. In most cases, this will require employers to accommodate such employees by using the same measures utilized by employers for approximately the last seventeen months of the pandemic (e.g., masking, spacing, increased sanitation measures, teleworking, etc.). Any employer inquiry into a disability or sincerely-held religious belief must genuinely serve the employer's asserted business necessity and the request must be no broader and no more intrusive than necessary.

WHEREAS, while the U.S. Occupational Safety and Health Administration ("OSHA") is not actively enforcing 29 CFR 1904's recording requirements through May 2022 requiring any employers to record worker side effects from COVID-19 vaccination through May 2022, OSHA will reevaluate the agency's position after May 2022 to determine the best course of action moving forward and as such until that time, if a person believes that their health and safety are in danger, the person (or their representative) has the right to file a confidential safety and health complaint with OSHA in accordance with 29 CFR 1904's recording requirements; and

WHEREAS, it is reasonable for a person or parent, in his or her own personal circumstances, to have the individual freedom and liberty to make his or her own informed healthcare decisions on whether or not to get a COVID-19 vaccine; and

WHEREAS, Vaccine Information Statements, also known as VISs are documents produced by the CDC, in consultation with panels of experts and parents, to properly inform vaccinees (or their parents/legal representatives) about the risks and benefits of each vaccine. Federal law (under the National Childhood Vaccine Injury Act) requires a healthcare professional to provide a copy of the current VIS to an adult patient or to a child's parent/legal representative before vaccinating an adult or child, yet VISs for the COVID-19 vaccines have not yet been developed for distribution; and

WHEREAS, it is unreasonable and detrimental to credibility, trust, fairness, justice, business and educational relationships for governments, businesses, or schools to force persons to obtain a coerced COVID-19 vaccination when there is significant information yet unknown; and

WHEREAS, it is not unreasonable for a person or a parent to use critical thinking and reasoning in addition to meeting with their paid primary care physician with regard to evaluating COVID-19 information individually and with their family, and it is not unreasonable to declare that individuals nor any members of their household should ever be bullied, coerced, incentivized, persuaded, pressured, punished, quasi-criminalized or shamed for the personal and private health choices they make for themselves and with the members of their household after consulting with their paid primary care physician; and

WHEREAS, not all persons are at high-risk for death or significant adverse long-term effects from COVID-19, as evidenced by the data table published by the CDC, and an individual risk factor calculator from Johns Hopkins also shows the differences can be much higher than 8700x. <https://covid19risktools.com/riskcalculator>. This information demonstrates the multi-factored complexity of the issue and that draconian, over-generalized unconstitutional mandates like those made in Tucson and New York are ill-considered and unmeasurable.

NOW, THEREFORE, THE FOLLOWING IS HEREBY RESOLVED BY THE BOARD OF SUPERVISORS:

1. After consultation with their paid primary care physician as a part of their personal and private doctor-patient relationship, every person or parent who voluntarily chooses to get a COVID-19 vaccine for themselves or their child should be able to do so, and every person or parent who voluntarily chooses to not get a COVID-19 vaccine for themselves or their child should not be required to do so.
2. It is an unreasonable seizure of a person, contrary to the 4th Amendment of the U.S. Constitution and Article 2, Section 8 of the Arizona Constitution, for the government to require a COVID-19 vaccine for all persons regardless of age, medical condition, and other factors.
3. It is an unreasonable invasion of privacy, except in certain healthcare related activities and other exceptional circumstances, to require a person to disclose the status of his or her COVID-19 immunization status for employment, education, access to events, or engagement in normal commercial and recreational activities.
4. Arizona law establishes that the State of Arizona and its political subdivisions of government are strictly prohibited from issuing or requiring a COVID-19 immunization “passport”.
5. The Board of Supervisors encourages all Mohave County businesses and schools to fully comply with Arizona law and they should avoid any measures or mandates that would propose to require employees, customers, patrons, students, or other persons to get a mandated COVID-19 vaccine or to produce private health insurance information on COVID-19 immunization status, otherwise known as COVID-19 immunization ‘passports’. Private business that desire to impose any such measures or mandates due to exceptional circumstances, such as healthcare facilities, should provide reasonable accommodations to those who cannot obtain the COVID-19 vaccine due to a disability or a sincerely-held religious belief.

So passed and adopted by the Board of Supervisors of Mohave County, Arizona, this 7th day of September, 2021.

MOHAVE COUNTY BOARD OF SUPERVISORS

ATTEST

Buster D. Johnson, Chairman

Ginny Anderson, Clerk of the Board