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Sixty-eighth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2274

Introduced by

Senators Clemens, Beard, Larsen, Magrum

Representative Vetter

A BILL for an Act to amend and reenact section 23-12-20 of the North Dakota Century Code, relating to vaccination and infection information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-12-20 of the North Dakota Century Code is amended and reenacted as follows:

23-12-20. COVID-19 vaccination and infection information. (Repealed effective August 1, 2023)

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
   a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
      (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
      (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
      (3) An individual's COVID-19 post-transmission recovery status;
   b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
   c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:

(1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;

(2) The presence of COVID-19 pathogens, antigens, or antibodies; or

(3) An individual's COVID-19 post-transmission recovery status.

2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.

3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination authorized by the federal food and drug administration under emergency use authorization, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.

4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.

5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.

6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.

7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.