ORDINANCE NO. 2023 - 18

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, ESTABLISHING THE COLLIER COUNTY HEALTH FREEDOM BILL OF RIGHTS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, numerous County residents have expressed their concerns to the Board of County Commissioners ("Board") over the federal government's and the World Health Organization's attempts to impose public health mandates and limit an individual's healthcare freedoms and rights; and

WHEREAS, the State of Florida has recognized these concerns and in November of 2021, Governor DeSantis signed into law Senate Bill (SB) 2-B and its companion House Bill (HB) 1-B,1 as well as HB 3-B/SB 4-B, 2, now codified in Chapter 381, Florida Statutes, in large part prohibiting the ability of private employers to impose a COVID-19 vaccination mandate amongst other protections; and

WHEREAS, the State of Florida further protects its residents' health related rights and freedoms through Section 381.026, Florida Statutes, the Florida Patient's Bill of Rights and Responsibilities, which promotes the interests and wellbeing of patients of healthcare providers and healthcare facilities; and

WHEREAS, the Board wishes to address the concerns of Collier County residents and adopt the foregoing State Statutes into local law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA:

SECTION ONE: Title

This Ordinance shall be known and cited as the "Collier County Health Freedom Bill of Rights" Ordinance.

SECTION TWO: Purpose and Intent

The purpose of this Ordinance is to safeguard the healthcare rights and freedoms of Collier County residents.

SECTION THREE: Definitions

The terms used in this Ordinance shall be defined as outlined in Chapter 381, Florida Statutes, as may be amended from time to time.

SECTION FOUR: Applicability.

This Ordinance is applicable and limited to unincorporated Collier County.

SECTION FIVE: COVID-19 vaccine documentation prohibited.

(A) A business entity within Collier County, as defined in Florida Statutes Sec. 768.38, may not require patrons or customers to provide any documentation certifying COVID-19 vaccination or postinfection recovery to gain access to, entry upon, or service from the business operations in Collier County. This subsection does not otherwise restrict businesses from instituting screening protocols consistent with authoritative or controlling government-issued guidance to protect public health.

(B) Collier County will not require anyone to provide any documentation certifying COVID-19 vaccination or postinfection recovery to gain access to, entry upon, or service from Collier County's operations.

(C) Florida Statutes Sec. 381.00316 is incorporated herein by reference, as it pertains to exemptions for health care providers.

SECTION SIX: Private employer COVID-19 vaccination mandates prohibited.

(A) A private employer within Collier County may not impose a COVID-19 vaccination mandate for any full-time, part-time, or contract employee without providing individual exemptions that allow an employee to opt out of such requirement on the basis of medical reasons, including, but not limited to, pregnancy or anticipated pregnancy; religious reasons; COVID-19 immunity; periodic testing; and the use of employer-provided personal protective equipment. For purposes of this section, the term "COVID-19" means the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom. Employers shall use forms adopted by the Department of Health, or substantially similar forms, for employees to submit exemption statements.

(B) If an employer fails to comply with subsection (A) and terminates an employee based on the employee's noncompliance with a COVID-19 vaccination mandate, the terminated employee may be eligible for reemployment in addition to any other remedy available to the employee.

(C) An employer may not impose a policy that prohibits an employee from choosing to receive a COVID-19 vaccination.

SECTION SEVEN: Vaccination mandates for Collier County employees.

Unless required by law, Collier County shall not impose any vaccination mandate for any Collier County employee except by supermajority vote by the Board.

SECTION EIGHT: Mask Mandates and Quarantine

Unless required by law, Collier County shall not impose a mask mandate, or issue a quarantine order, except by supermajority vote by the Board.

SECTION NINE: Vaccine Passports

Unless required by law, Collier County shall not require a Vaccine Passport as a condition of entry except by supermajority vote by the Board.

SECTION TEN: Directives from the World Health Organization and Other International Bodies

Unless compelled by Federal or State law, Collier County does not recognize any authority by the World Health Organization or any other international body to impose any health mandates or directives within Collier County.

SECTION ELEVEN: Florida Patient's Bill of Rights and Responsibilities.

Collier County hereby adopts in its entirety the Florida Patient's Bill of Rights and Responsibilities, as codified in Florida Stat. Sec. 381.026, as may be amended from time to time.

SECTION TWELVE: Penalties.

To the extent not inconsistent with Florida law, violations of this Ordinance shall be punishable as provided by law for the violation of county ordinances.

SECTION THIRTEEN: Conflict and Severability

In the event this Ordinance conflicts with State or Federal law, State or Federal law shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

It is the intent of this Ordinance to mirror State law. Accordingly, this Ordinance shall be automatically amended upon any amendment of Chapter 381, Florida Statutes, or any other relevant State law.

SECTION FOURTEEN: Inclusion in the Code of Laws and Ordinances

The provisions of this Ordinance shall become and be made part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION FIFTEEN: Effective Date

This Ordinance shall become effective upon filing with the Secretary of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 11th day of April, 2023.

ATTEST:
CRYSTAL K. KINZEL, CLERK

By: Jennifer Hansen D.C.
Deputy Clerk

Attest as to Chairman's signature only.

Approved as to form and legality:

Jeffrey A. Klatzkow, County Attorney

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: _____
Rick LoCastro, Chairman