

Florida Podiatric Medical Association

SPECIAL SESSION 2021 B



FPMA Legislative Update Special Session 2021 B

November 19, 2021

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On Wednesday, November 17, 2021, just three days after commencing the 2021 Special Session B, the Legislature concluded all business geared toward establishing guardrails surrounding COVID mandates. In all, the legislature passed four bills, HB 1B, HB 3B, HB 5B and HB 7B. This legislation passed largely along party lines.

The bills have been submitted to the Governor for his consideration. Governor DeSantis has until November 24, 2021, to act upon the legislation.

The legislature will resume interim committee meetings, the week of November 29, 2021. No other meetings are scheduled until the Regular Session convenes on January 11, 2022.



[Press Availability](#)
[House Speaker Chris Sprowls](#)



[Press Availability](#)
[Senate President Wilton Simpson](#)

HB 1 COVID-19 Mandates

Although HB 1B does not restrict a business from mandating vaccines, the legislation provides a framework through which employees can opt-out of the mandate without fear of employer reprisal. **The bill requires employers to provide employees individual exemptions within five exemption categories – medical, religious, COVID immunity, periodic testing, or employer-provided personal protective equipment.** To qualify for an exemption, an employee must submit an exemption statement to the employer on forms adopted by DOH, or substantially similar forms.

Exemptions:

- To claim an exemption based on medical reasons, including, but not limited to, pregnancy or anticipated pregnancy, the bill requires employees to present to the employer an exemption statement, dated and signed by a physician licensed under chapter 458 or chapter 459, a physician assistant, or an advanced practice registered nurse who has examined the employee. The statement must provide that, in the professional opinion of the healthcare provider, COVID-19 vaccination is not in the employee's best medical interest.
- Employees claiming a religious exemption, are required to provide the employer with an exemption statement stipulating the employee declines COVID-19 vaccination due to a sincerely held religious belief.
- To claim an exemption based on COVID-19 immunity, employees must submit to the employer an exemption statement demonstrating competent medical evidence that the employee has immunity to COVID-19. Such documentation must include the results of a valid laboratory test performed on the employee. The DOH is required to adopt a standard for demonstrating competent medical evidence of such immunity.
- To claim an exemption based on periodic testing, the bill requires employees to present to the employer an exemption statement indicating that the employee agrees to comply with regular testing for the presence of COVID-19 at no cost to the employee.
- To claim an exemption based on employer-provided personal
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protective equipment, the bill requires employees to present to the employer an exemption statement indicating that the employee agrees to comply with the employer's reasonable written requirement to use employer-provided personal protective equipment when in the presence of other employees or other persons.

In addition, the legislation provides a process through which employees may file a complaint with the Department of Legal Affairs (DLA), alleging that an exemption has not been offered or has been improperly applied or denied in violation of the exemption requirements. If DLA investigates a complaint and finds the complaint valid, DLA must notify the employer of its findings and allow the employer the opportunity to cure the problem. The DLA is required to investigate all claims filed by a terminated employee, alleging that an exemption has not been offered or has been incorrectly applied or denied, resulting in the employee's termination. The bill requires the Attorney General (AG) to impose an administrative fine up to \$10 thousand per violation for employers with fewer than 100 employees and up to \$50 thousand for employers with greater than 100 employees, if the AG finds that an employee has been improperly terminated. The amount of the fine imposed is at the discretion of the AG based upon certain considerations. The bill prohibits the AG from imposing a fine on an employer who reinstates, prior to the issuance of a final order, a terminated employee with back pay.

The bill prohibits an educational institution or a governmental entity from imposing a COVID-19 vaccination mandate for any full-time, part-time, or contract employee. An educational institution or a governmental entity that imposes a COVID-19 vaccination mandate for any full-time, part-time, or contract employee commits a violation of this prohibition for each employee subject to the employer's COVID-19 vaccination mandate. The bill authorizes DOH to impose a fine not to exceed \$5,000 per violation and fines collected must be deposited in the General Revenue Fund.

The bill maintains a parent's right to allow their child to wear a face mask, face shield or facial covering at school. No district school board, district school superintendent, or elected or appointed local official, or school board employee may require a student to wear a face mask, face shield, or other facial covering that fits over the mouth or nose, unless it is safety equipment required as part of a course of study consistent with occupational or laboratory safety requirements.

Finally, the bill prohibits school officials from barring an asymptomatic student, who has not received a positive COVID-19 test, from attending

school or school-sponsored activities based on the student's exposure to COVID-19.
<https://static-s3.lobbytools.com/bills/2021B/pdf/0001BER.pdf>

HB 3 Pub. Rec./COVID-19 Vaccination Policies and Practices

HB 3B creates a public record exemption for an employee complaint alleging a private employer's violation of state law regarding employer COVID-19 vaccination policies or practices, and all information relating to an investigation of such complaint, held by DLA until the investigation is completed or ceases to be active. After an investigation is completed or ceases to be active, information relating to the investigation remains confidential and exempt from public records requirements if disclosure of that information would jeopardize the integrity of another active investigation, reveal medical information about an employee, or reveal information regarding an employee's religious beliefs.

Information made confidential and exempt may be released to another governmental entity in the furtherance of that entity's lawful duties and responsibilities. Additionally, the bill provides that it does not prohibit the disclosure of information in an aggregated format.

<https://static-s3.lobbytools.com/bills/2021B/pdf/0003BER.pdf>

HB 5 Florida Occupational Safety and Health State Plan

HB 5B establishes that it is in the state's best interest to explore the development of a state plan for Florida by finding that a state plan would enhance occupational safety and health by implementing practices and standards that reduce the incidence of employee accidents, occupational diseases, and fatalities. It also finds that a state plan would provide the state with the flexibility to meet the unique needs of its businesses and workforce.

The bill directs the Executive Office of the Governor (EOG) to develop a proposal for a state plan (proposal) to assert jurisdiction over occupational safety and health issues for government and private employees and to designate or hire appropriate staff to develop the proposal. The bill directs the Divisions of Risk Management and Workers' Compensation within the

Department of Financial Services, the Department of Health, and the Department of Business and Professional Regulation, upon the EOG's request, to assist with the proposal. The bill requires the EOG to provide a status report to the President of the Senate and the Speaker of the House of Representatives by January 17, 2022, which contains at least the following:

- A timeline for completion of the proposal and the state plan, including establishment of an agency to oversee the state plan, legislation necessary to implement the state plan, and the scope of coverage with respect to employees covered under, and excluded from, the state plan.
- An explanation of whether the EOG needs to hire additional employees, consultants, or contractors to assist with the development of the proposal and the state plan and whether appropriation of additional funds is required to meet this need.

<https://static-s3.lobbytools.com/bills/2021B/pdf/0005BER.pdf>

HB 7 Vaccinations During Public Health Emergencies

HB 7B removes the authority of the Surgeon General to order a person to be vaccinated. This appears to have little impact, as the authority has not been used since its creation in 2002. The bill has no effect on older authorities, such as examination, testing, and quarantine.

<https://static-s3.lobbytools.com/bills/2021B/pdf/0007BER.pdf>

In the News



Special session ends with legislators approving a plan...

Rebuking the Biden administration, Florida's Republican-controlled Legislature on Wednesday passed a measure that seeks to prevent workers from being required to get vaccinated against COVID-19. The votes by the House and Senate came on the third ...

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health.wusf.usf.edu

Pfizer and U.S. sign a \$5.29 billion deal for possible...

The U.S. government will pay drugmaker Pfizer \$5.29 billion for 10 million treatment courses of its potential COVID-19 treatment if regulators authorize it. Pfizer asked U.S. regulators on Tuesday to authorize emergency use of its experimental...

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health.wusf.usf.edu



Vote strips Florida surgeon general of power to order...

The surgeon general has not used the power since it was put in state law in 2002. But the Republican-controlled Legislature moved forward this week with repealing it during a special session that focused on pushing back against vaccination and...

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Legislators' vote could lead to the state taking over...

Florida lawmakers Wednesday passed a measure that could lead to the state taking over regulation of worker safety and health issues and ending oversight by the federal Occupational Safety and Health Administration. The Republican-controlled House ...

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