GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2021-09

Prohibiting Political Jurisdictions of the State from Requiring the Disclosure of an Individual's COVID-19 Vaccination Status

WHEREAS, on January 31, 2020, Secretary Alex Azar ("Secretary") of the United States Department of Health and Human Services ("HHS"), declared a public health emergency to address COVID-19; and

WHEREAS, on February 4, 2020, pursuant to section 564 of the Food, Drug and Cosmetic Act, the Secretary of HHS declared that circumstances exist to justify the authorization of emergency use therapies to detect, treat and diagnose COVID-19; and

WHEREAS, on March 11, 2020, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 26-303 and 36-787, I, as Governor of the State of Arizona, issued a declaration of a Public Health State of Emergency due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19; and

WHEREAS, on March 27, 2020, pursuant to section 564 of the Food, Drug and Cosmetic Act, the Secretary of HHS issued an Emergency Use Declaration justifying the authorization of emergency use of drugs and biological products during the COVID-19 pandemic, subject to the terms of any authorization issued under that section; and

WHEREAS, the United States Food and Drug Administration (FDA) has granted multiple Emergency Use Authorizations (EUAs) for COVID-19 vaccinations; and

WHEREAS, the COVID-19 vaccines which have been granted an EUA have gone through trials and have proven to be safe and effective; and

WHEREAS, Arizona has been working to ensure that COVID-19 vaccinations are available to all Arizonans who choose to get one and who are eligible to receive one; and

WHEREAS, both federal and state law allow individuals the option to accept or refuse vaccinations; and

WHEREAS, although highly contagious, COVID-19 has not demonstrated to have transmission characteristics that meet the requirements of A.R.S. § 36-787(C) which provides for mandated vaccines in narrow circumstances; and

WHEREAS, although receiving a COVID-19 vaccination pursuant to an EUA is strongly encouraged, it is not and will not be mandated by the State of Arizona; and

WHEREAS, a person's COVID-19 vaccination status is private health information that no person should be compelled to disclose to a governmental entity as a condition of receiving services, being granted a license, or being granted entry to a business or facility, except as currently provided by state law; and

WHEREAS, pursuant to A.R.S. § 26-307(A), "counties, cities and towns may make, amend and rescind orders, rules and regulations necessary for emergency functions but such shall not be inconsistent with orders, rules and regulations promulgated by the governor;" and

WHEREAS, pursuant to A.R.S. § 26-307(B), "Existing laws, ordinances, orders, rules and regulations in conflict with this chapter or orders, rules or regulations issued under authority of this chapter are suspended during the time and to the extent that they conflict;" and

WHEREAS, pursuant to A.R.S. § 36-787, during a public health state of emergency, the Arizona Department of Health Services shall coordinate all matters pertaining to the public health emergency; and

WHEREAS, based on the authority of A.R.S. Title 26, Chapter 2 and A.R.S. § 36-787, coordination of all matter pertaining to COVID-19 are of statewide concern rather than local concern unless otherwise determined by the Director of the Arizona Department of Health Services; and

WHEREAS, requirements related to vaccinations must be managed at the state level.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of the State, specifically A.R.S. 26-303 and 36-787, do hereby order as follows:

1. No state agency, county, city, town or other political subdivision of this state shall adopt any order, policy, regulation, ordinance, or other measure that requires an individual to provide documentation regarding the individual's COVID-19 vaccination status as a condition of entering any building, business, facility, location, park, or other space unless proof of vaccination is currently a requirement under state law.

2. No state agency, county, city, town or other political subdivision shall adopt any order, policy, regulation, ordinance, or other measure that requires an individual to provide documentation regarding the individual's COVID-19 vaccination status as a condition of receiving any service, permit, license or other work authorization requirement issued by the jurisdiction unless proof of vaccination is currently a requirement under state law.

3. A business receiving public funds from the State of Arizona pursuant to a contract to provide services to the public, shall not require a customer to provide documentation regarding the individual's COVID-19 vaccination status as a condition of receiving state contracted services unless proof of vaccination is a requirement under state law.

4. Nothing in this order shall be construed to limit the ability of a healthcare institution licensed under A.R.S. Title 36 which includes hospitals, nursing care institutions, residential care institutions, intermediate care facilities for individuals with intellectual disabilities (ICF-IID), group homes, or other medical facilities from requiring documentation of a patient, resident, employee, or visitor's COVID-19 vaccination status.

5. Nothing in this order shall be construed to limit the ability of an individual to request their own vaccination records be provided to that individual or to a third party that the individual requests their records be released to.

6. Nothing in this order shall prohibit a state or local health department from requiring an individual to provide documentation regarding the individual's COVID-19 vaccination status during a COVID-19 outbreak investigation.

7. Nothing in this order shall be construed to limit the ability of a child care center or home, school, or university from requiring a student's vaccination records pursuant to state law.

8. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

9. This order shall remain in place until the termination of the public health emergency.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

GOVERNOR

DONE at the Capitol in Phoenix on this 19th day of April in the year Two Thousand and Twenty-one and of the Independence of the United States of America the Two Hundred and Forty-Fifth.

ATTEST:

Secretary of State