

# LEGAL SERVICES

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## MEMORANDUM

September 9, 2021

**SUBJECT:** Voluntariness of COVID-19 vaccines  
(SCS CSHB 76(FIN) am S; Work Order No. 32-GH1011\R.A.E)

**TO:** Senator Lora Reinbold  
Attn: Kelli Toth

**FROM:** Andrew Dunmire   
Legislative Counsel

House Bill 76, which was passed by the Legislature, signed by the governor, and enrolled, contains this section:

\* **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PERSONAL OBJECTIONS TO THE ADMINISTRATION OF COVID-19 VACCINES. An individual may object to the administration of a novel coronavirus disease (COVID-19) vaccine based on religious, medical, or other grounds. A parent or guardian of a minor child may object to the administration of a COVID-19 vaccine to the minor child based on religious, medical, or other grounds. A person may not require an individual to provide justification or documentation to support the individual's decision to decline a COVID-19 vaccine or to decline a COVID-19 vaccine for a minor child.

However, Governor Dunleavy subsequently rescinded the declaration of disaster emergency that HB 76 enacted, which repealed the above-quoted section.<sup>1</sup> Therefore, sec. 17 is no longer enacted into law. You asked (1) whether Alaskans still retain an "ability to opt out" of receiving a COVID-19 vaccine "for any reason," and (2) whether Alaskans may "opt out" of a COVID-19 vaccine based upon a religious exemption.

Under Alaska law, an individual does not need to "opt out" of a vaccine administration. Instead, a patient must give informed consent in order to receive a vaccine. Informed consent is based upon the principle that each individual has a right to determine what

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<sup>1</sup> See sec. 21(a), ch. 2, SLA 2021, which stated that sec. 17 would be repealed on the earlier of December 31, 2021, or the date the governor issued a proclamation that the public health disaster emergency no longer existed.

Senator Lora Reinbold

September 9, 2021

Page 2

may be done to his or her own body.<sup>2</sup> Under this framework, adults may decline to receive any medical treatment for any reason, including religious beliefs.<sup>3</sup> It would therefore be more accurate to state that individuals must "opt in" to receiving a COVID-19 vaccine.

In a memo dated April 5, 2021, this office provided your office a summary of existing law surrounding informed consent. I have attached that memo to this document in case you would like to review it again.

ASD:lme  
21-179.lme

Attachment

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<sup>2</sup> *Harrold v. Artwohl*, 132 P.3d 276, 280 (Alaska 2006).

<sup>3</sup> However, people may be put in situations in which they must decide whether remaining unvaccinated is worth the personal cost. Some businesses, including hospitals and airlines, have adopted policies requiring that all employees be vaccinated against COVID-19.