

Senate File 238 - Introduced

SENATE FILE 238

BY GUTH

A BILL FOR

1 An Act establishing the immunization safety and right of
2 refusal Act, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 135Q.1 Short title.

2 This chapter shall be known and may be cited as the
3 "*Immunization Safety and Right of Refusal Act*".

4 Sec. 2. NEW SECTION. 135Q.2 Definitions.

5 As used in this chapter, unless the content otherwise
6 requires:

7 1. "*Health care facility*" means the same as defined in
8 section 135C.1.

9 2. "*Health care provider*" means a person licensed or
10 certified by and subject to the authority of a board as defined
11 in section 147.2 who provides professional health care services
12 to a patient during that patient's medical care, treatment, or
13 confinement.

14 3. "*Hospital*" means the same as defined in section 135B.1.

15 4. "*Insurer*" means an entity providing a plan of health
16 insurance, health care benefits, or health care services, or
17 an entity subject to the jurisdiction of the commissioner
18 of insurance performing utilization review, including an
19 insurance company offering sickness and accident plans, a
20 health maintenance organization, a nonprofit health service
21 corporation, a plan established pursuant to chapter 509A
22 for public employees, or any other entity providing a plan
23 of health insurance, health care benefits, or health care
24 services.

25 5. "*Patient*" means a person who has received or is receiving
26 professional health care services from a health care facility,
27 health care provider, or hospital.

28 Sec. 3. NEW SECTION. 135Q.3 Immunizations — prohibited
29 discrimination — civil remedies.

30 1. A hospital or health care facility shall not do any of
31 the following:

32 a. Discriminate against or terminate the employment of a
33 health care provider, staff member, employee, or applicant for
34 one of these positions based on the person's refusal to receive
35 an immunization.

1 *b.* Discriminate against or terminate the employment of a
2 health care provider, staff member, or employee based on the
3 person's willingness to participate in the immunization of
4 patients.

5 2. A hospital or health care facility or a health care
6 provider, staff member, or employee of a hospital or health
7 care facility shall not discriminate against or terminate
8 treatment of a patient based upon the patient's refusal to
9 receive an immunization.

10 3. A hospital, health care facility, or educational
11 institution providing clinical experience to satisfy the
12 professional degree requirements of a student, intern, or
13 resident shall not discriminate against the student, intern, or
14 resident, or prohibit admission, enrollment, or employment as a
15 student, intern, or resident based on the immunization status
16 of the student, intern, or resident.

17 4. A person aggrieved under this section may petition the
18 district court in the county where the hospital, health care
19 facility, or educational institution is located for any of the
20 following:

21 *a.* Injunctive relief against any further violation.

22 *b.* Affirmative relief, including reinstatement of employment
23 with back pay and interest, or any other equitable relief the
24 court deems appropriate.

25 *c.* Other appropriate relief necessary to ensure compliance
26 with this section.

27 Sec. 4. NEW SECTION. 135Q.4 Immunization — health care
28 providers — prohibited discrimination.

29 1. The licensing authority for a health care provider shall
30 not deny an applicant for a license or suspend, revoke, or
31 refuse to renew a license, and shall not take disciplinary
32 action against a licensee based on the applicant's or
33 licensee's immunization history or refusal to submit to or
34 administer an immunization.

35 2. The licensing authority for a health care provider shall

1 not deny an applicant a license or suspend, revoke, or refuse
2 to renew a license, and shall not take disciplinary action
3 against a licensee based on the applicant or licensee having
4 three or more verified failures to comply in one calendar year
5 with the applicable health care provider requirements pursuant
6 to 42 U.S.C. §300aa-25 and 42 U.S.C. §300aa-26.

7 Sec. 5. NEW SECTION. 135Q.5 Immunizations — prohibited
8 actions — insurers and insurer ratings — cease and desist
9 orders and penalties.

10 1. An insurer providing a group policy, contract, or plan
11 for health insurance shall not use the immunization status of
12 a person as a basis to reject; deny; limit; cancel; refuse to
13 renew; increase the premiums for; limit the amount, extent, or
14 kind of coverage available to; or otherwise adversely affect
15 eligibility or coverage for the group health policy, contract,
16 or plan for health insurance.

17 2. An insurer providing a group policy, contract, or plan
18 for health insurance shall not use the immunization status of
19 patient as a qualification or requirement for contracting with
20 the patient's provider or as a basis for terminating a contract
21 with the patient's provider.

22 3. The immunization status of a person covered by a group
23 policy, contract, or plan for health insurance shall not be
24 used as a factor in the rating of a group policy, contract, or
25 plan for health insurance in this state.

26 4. An insurer issuing a group policy, contract, or plan for
27 health insurance who violates this section is subject to the
28 summary cease and desist order, cease and desist order, and
29 penalty provisions pursuant to chapter 507B.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill creates the "Vaccination Safety and Right of
34 Refusal Act". The bill provides definitions used in the Code
35 chapter.

1 The bill prohibits a hospital or health care facility from
2 discriminating against or terminating the employment of a
3 health care provider, staff member, employee, or applicant
4 for one of these positions, based on the person's refusal to
5 receive an immunization, and from discriminating against or
6 terminating the employment of a health care provider, staff
7 member, or employee based on the person's willingness to
8 participate in the immunization of patients. The bill also
9 prohibits a hospital, health care facility, or a health care
10 provider, staff member, or employee of a hospital or health
11 care facility from discriminating against or terminating
12 treatment of a patient based upon the patient's refusal to
13 receive an immunization. Under the bill, a hospital, health
14 care facility, or educational institution providing clinical
15 experience to satisfy the professional degree requirements of a
16 student, intern, or resident is prohibited from discriminating
17 against the student, intern, or resident, or prohibiting
18 admission, enrollment, or employment as a student, intern,
19 or resident based on the immunization status of the student,
20 intern, or resident. A person aggrieved under this portion of
21 the bill may petition the district court in the county where
22 the hospital, health care facility, or educational institution
23 is located for injunctive relief; affirmative relief, including
24 reinstatement of employment with back pay and interest or any
25 other equitable relief the court deems appropriate; or other
26 appropriate relief necessary to ensure compliance with this
27 portion of the bill.

28 The bill also prohibits a health care provider licensing
29 authority from denying an applicant for a license or
30 suspending, revoking, or refusing to renew a license, or
31 from taking disciplinary action against a licensee based on
32 an applicant's or licensee's immunization history or refusal
33 to submit to or administer an immunization. A health care
34 provider licensing authority is also prohibited from denying
35 an applicant a license; suspending, revoking, or refusing to

1 renew a license; or from taking disciplinary action against a
2 licensee based on the applicant or licensee having three or
3 more verified failures to comply in one calendar year with
4 the applicable health care provider requirements relative to
5 the recording and reporting of vaccine information and the
6 provision of vaccine information to patients under federal law.

7 The bill prohibits an insurer providing a group policy,
8 contract, or plan for health insurance from using the
9 immunization status of a person as a basis to reject; deny;
10 limit; cancel; refuse to renew; increase the premiums for;
11 limit the amount, extent, or kind of coverage available
12 to; or otherwise adversely affect eligibility or coverage
13 for the group health policy, contract, or plan for health
14 insurance. The bill also prohibits an insurer providing a
15 group policy, contract, or plan for health insurance from
16 using the immunization status of a patient as a qualification
17 or requirement for contracting with the patient's provider
18 or as a basis for terminating a contract with the patient's
19 provider. Finally, the bill prohibits the immunization status
20 of a person covered by a group policy, contract, or plan for
21 health insurance from being used as a factor in the rating of a
22 group policy, contract, or plan for health insurance in Iowa.
23 An insurer issuing a group policy, contract, or plan for health
24 insurance who violates any of these provisions of the bill is
25 subject to the summary cease and desist order, cease and desist
26 order, and penalty provisions pursuant to Code chapter 507B
27 (insurance trade practices).