



GOVERNOR GREG ABBOTT

April 5, 2021

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SECRETARY OF STATE
1:30 PM O'CLOCK

APR 05 2021

Secretary of State

The Honorable Ruth R. Hughs
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-35 relating to COVID-19 vaccines and the protection of
Texans' private health information.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

Gregory S. Davidson
Executive Clerk to the Governor

GSD/md

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
April 5, 2021

EXECUTIVE ORDER GA 35

*Relating to COVID-19 vaccines and the protection
of Texans' private health information.*

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have renewed the disaster declaration for all Texas counties; and

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, the U.S. Food and Drug Administration (FDA) has granted emergency use authorizations for COVID-19 vaccines that are not yet FDA-approved, pursuant to the Project BioShield Act of 2004, 21 U.S.C. § 360bbb-3; and

WHEREAS, that federal statute expressly recognizes that each individual has “the option to accept or refuse administration of the product” under an emergency use authorization, 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(III); and

WHEREAS, receiving one of these COVID-19 vaccines under an emergency use authorization, while strongly encouraged, is always voluntary in Texas and will never be mandated by the government; and

WHEREAS, Texas has administered over 12 million doses of the COVID-19 vaccines, and every person who is at least 16 years old is now eligible to receive a shot if they so choose; and

WHEREAS, millions more Texans have already recovered from COVID-19 and thus acquired some degree of immunity; and

WHEREAS, some Texans are still waiting to receive a COVID-19 vaccine, while others will opt out altogether due to a religious objection, a health concern, or some other reason; and

WHEREAS, an individual's COVID-19 vaccination status is private health information, and no governmental entity should compel disclosure of this information by mandating a so-called “vaccine passport” for COVID-19 or by otherwise conditioning receipt of

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services on an individual's COVID-19 vaccination status; and

WHEREAS, the Constitution does not empower the federal government to mandate nationwide vaccine passports for COVID-19, and Texas will not impose such vaccine passports with the police power that is reserved to the States under our system of federalism; and

WHEREAS, I request that the 87th Legislature address this important privacy issue in the current legislative session; and

WHEREAS, in the Texas Disaster Act of 1975, the legislature charged the governor with the responsibility "for meeting ... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and expressly granted the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders ... hav[ing] the force and effect of law;" and

WHEREAS, under Section 418.016(a), the "governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business ... if strict compliance with the provisions ... would in any way prevent, hinder, or delay necessary action in coping with a disaster;" and

WHEREAS, under Section 418.018(c), the "governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area;"

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine administered under an emergency use authorization.
2. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual's vaccination status for any COVID-19 vaccine administered under an emergency use authorization. I hereby suspend Section 81.085(i) of the Texas Health and Safety Code to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.
3. Any public or private entity that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money, shall not require a consumer to provide, as a condition of receiving any service or entering any place, documentation regarding the consumer's vaccination status for any COVID-19 vaccine administered under an emergency use authorization. No consumer may be denied entry to a facility financed in whole or in part by public funds for failure to provide

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documentation regarding the consumer's vaccination status for any COVID-19 vaccine administered under an emergency use authorization.

4. Nothing in this executive order shall be construed to limit the ability of a nursing home, state supported living center, assisted living facility, or long-term care facility to require documentation of a resident's vaccination status for any COVID-19 vaccine.
5. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.

This executive order does not supersede Executive Orders GA-10, GA-13, or GA-34. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor.



Given under my hand this the 5th
day of April, 2021.

Handwritten signature of Greg Abbott in black ink.

GREG ABBOTT
Governor

ATTESTED BY:

Handwritten signature of Ruth R. Hughs in black ink.

RUTH R. HUGHS
Secretary of State

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