

STANDING COMMITTEE REPORT NO. 21-80

RE: C.B. NO. 21-348/H&SA

SUBJECT: MAKING THE COVID-19 VACCINE MANDATORY

JANUARY 22, 2021

The Honorable Wesley W. Simina  
Speaker, Twenty-First Congress  
Federated States of Micronesia  
Sixth Regular Session, 2021

Dear Mr. Speaker:

Your committee on Health and Social Affairs to which was referred C.B. 21-348, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 41 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED, BY ADDING A NEW CHAPTER 12, FOR THE PURPOSE OF MAKING THE COVID-19 VACCINATION MANDATORY FOR ALL CITIZENS AND RESIDENTS OF THE FSM, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its title.

Your Committee held a hearing on January 20, 2021. The witnesses present included: Chief of Staff Leo Falcam, Acting Secretary of Health Marcus Samos and Jun Bacalondo representing the Justice Department, and others.

Chairman Perman welcomed the witnesses and members and explained the intent of the bill. Chairman Perman then solicited input from the witnesses present.

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Chief of Staff noted that he is in favor of vaccination and plans on vaccinating himself. He understands the imperative for public health safety. He supports widespread vaccination as it is possible. He also understands that there may be individuals who do not desire the vaccination. He is unclear on how the bill would be enforced. He also is concerned about the potential of there being side effects from the vaccine in the future and potential liability to the government if the vaccine is mandatory. He does not oppose the legislation, but feels this should be considered. Will people be jailed for not getting vaccinated? There are many people who are concerned about long term vaccine side effects. Noting that there are situations where people are mandated, front liners, kids at school, etc. The Chief leans towards being in favor, but there are some additional considerations, enforcement and people who do not want to take it.

AAG Bacalondo notes that upon their review, this is the first time that there has been a mandatory vaccine. With regards to the Constitutional aspect, the bill infringes on civil rights, the right to privacy, the right to due process. This bill touches on these provisions. The emergency declaration does not absolutely or 100% override the right to privacy. Regarding due process, not only about procedural right to be heard, but also touches on substantive guarantee laws are reasonable and not arbitrary. If injecting people against their will, it could potentially be unconstitutional. Civil rights may be impaired under the declaration of emergency, within strict parameters. There is an allowance for limited impairment under state of emergency, title 42 specifies if it is "actually required", etc. It was suggested that we should explore persuasion instead of compulsory language. "Strongly encourage" might be a better approach. In the US, where the vaccine is produced, the vaccine is not mandatory. The source of funding is from the Cares Act and we might wish to align with the position of the funding stream. We are aware that there may be some old US Supreme Court cases in the US that may or may not be binding in 2021, 100 years after the cases

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were decided. The President's message was read by AAG Bacalondo: The President cannot force upon citizens to take COVID vaccine. Other countries are not forcing, but rather convincing them it is in their own best interest and in the interest of the nation. Mandating may be in violation of civil liberties. We should strongly encourage people through education. People can make their own choices. Citizens more likely to take vaccine if they feel it's in their best interest.

Chairman Perman inquired as to how we know when a person has been vaccinated? The response was that there is no way to tell. Vaccine is only one response the nation is taking. Continue to encourage the public follow the public safety recommendations.

Chairman Perman asked if there are negative side effects being reported by CDC and WHO? Mr. Samos responded that from a public health perspective the vaccine is safe and effective. In the FSM there have been no reports of any significant side effects.

A community member noted that the vaccine has been authorized for emergency use only, it has not approved by the FDA by going through the usual rigorous testing. There is no way to guarantee that there will be no long term side effects with this vaccine.

It was also noted that the manufacturers have been granted immunity with regards to the vaccination and this is concerning. Mr. Samos and AAG Bacalondo responded that this is the standard indemnity in a situation like this. AAG Bacalondo noted that they can only speculate as to why this was done, but he believes these are standard provisions.

Dr. Ekiek reported that the common side effects are soreness at injection site. More concerning would be seizures or shock, which has not been seen at all in the FSM. The FSM has implemented over 1000 vaccines and there have been no adverse events. Regarding mandating vaccines, Dr. Ekiek

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also supported community education and awareness, for all vaccines and medications to treat other diseases. People should always have the choice. Public health will continue their advocacy to get vaccinated to prevent getting the disease. She also shared her concern regarding if we mandate the vaccine, how will that be enforced.

Chairman Perman noted that Public Health should be working directly with the traditional leaders, as they have a very strong influence on their people. He noted that the science needs to be shared with the highest leaders to share with the other leaders. Citizens need to be informed. High ranking church, traditional leaders, ensuring the states are disseminating the current and accurate information to all citizens so they have a better understanding of the situation and can make good decisions.

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Your Committee on Health and Social Affairs, upon additional information from the health professionals and experts, and the concerns shared, especially regarding the unknown long term effects of the vaccine, is not in accord with the intent and purpose of C.B. No. 21-348, and does not recommend its adoption.

Respectfully submitted,

/s/ Ferny S. Perman  
Ferny S. Perman, chairman

Tiwiter Aritos, vice chairman

Florencio Harper, member

/s/ Derensio S. Konman  
Derensio S. Konman, member

Esmond B. Moses, member

Aren B. Palik, member

/s/ Joseph J. Urusemal  
Joseph J. Urusemal, member