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RE: HB 124 – Emily Tarsell – FWA

January 28, 2021

Economic Matters Chairman and Committee Members,

I am Emily Tarsell, a licensed clinical professional counselor and as such I am very aware of HIPPA mandates regarding the privacy of health records and health information. I am therefore concerned that this bill contains language that appears to be a violation of medical privacy law. Specifically Section 2, (c) (4) ii states “an employee may access personal records related to that employee's disease exposure and diagnosis” where “*that employee's*” is referring to another individual present at the work site. This practice would be in violation of standards established in 1996 to protect sensitive health information from being disclosed without an individual's consent or knowledge. It is in violation of the law and it should be stricken from the bill.

Another concern relates to the Federal Emergency Use Authorization Law which states that products that are emergency authorized can only be offered or administered on a voluntary basis. Covid 19 vaccines and Covid 19 testing methods were emergency approved products and according to law individual's who are offered or administered these products must be informed:

”(I) that the Secretary has authorized the emergency use of the product;

(II) of the significant known and potential benefits and risks of such use, and of the extent to which such benefits and risks are unknown; and

(III) of the option to accept or refuse administration of the product, ...” [21 USCS § 360bbb-3](#)

[https://uscode.house.gov/view.xhtml?req=\(title:21%20section:360bbb3%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:21%20section:360bbb3%20edition:prelim))

In other words, **under an Emergency Use Authorization, EUA, vaccines like Covid 19 vaccines and testing methods are not allowed to be mandatory.** If this bill were to pass, it is important that this specific language is included in the bill for employers to be mindful of the law as they develop Covid related policies and procedures. **Employees and customers should also not be penalized for exercising their legal right to choose and words to that effect should be included in the bill.** However, given that most businesses are already practicing CDC Covid precaution guidelines, and that the end of the Covid crisis is in sight, are sections 2 and 3 of this bill needed at all?

I will leave others to debate the need and merits of Section 1, but I urge the bill be amended with careful consideration of the potential violations of law in Section 2 and Section 3 and as to whether these Sections are needed as all. Thank you.

Emily Tarsell