

**Submission in support of the Fair Work Amendment (Prohibiting COVID-19 Vaccine Discrimination) Bill 2023 No. 2023 (Senators Canavan, Antic and Rennick) -
A Bill for an Act to amend the Fair Work Act 2009, and for related purposes**

Summary

The crucial issue is, does an employer have the right to discriminate between employees and make employment decisions based on a medical treatments/procedures whether the treatment/procedure is preventive, diagnostic, or therapeutic? The answer to this question then applies to the Covid-19 injection as well.

To answer this question, other questions need to be answered first:

- Who owns the body of an employee? Is the employee the owner of their own body, or their employer?
- Do employers have the right to decide on what medical treatments/procedures persons with capacity must accept while in their employment? Or in other words, does an employer have the right to dictate the personal health decisions to their employees?
- Who assumes the material risk of a medical treatment/procedure? Is it the person who assumes the risk of the treatment/procedure, or a third party like their employer?

I believe that:

1. An individual person is the absolute owner of their own body. As a result, personal medical decisions are the responsibility of each individual person. Different employees have different personal medical circumstances, which are managed by health care professionals and none others, according to the employees' particular needs. The employee – health care professional relationship is, and must remain independent of the employee – employer relationship to avoid coercion regarding medical treatments/procedures. Consequently, an employment decision based on the Covid-19 vaccination (or any other treatment/procedure) status made by an employer, is inherently coercive, out of scope, and discriminatory.
2. Informed consent is a foundational principle in modern Medicine as practised in Australia. It is applied across all specialties, across all medical practitioners, across all patients with capacity, and across all health care organisations on a daily basis. Therefore, any employment decision based on the Covid-19 vaccination status made by an employer, or any other vaccination or medical treatment/procedure, is inherently discriminatory against the employees who exercise their informed consent rights to refuse a medical treatment/procedure such as the Covid-19 vaccination.
3. *Services Australia website states: ‘natural immunity* – if your patient doesn't need a vaccine because they have a natural immunity to the disease they don't need to get that vaccine to be considered up to date with their vaccinations.’ An employment decision based on the Covid-19 vaccination status made by an employer, particularly blanket employment decisions, are by definition medically discriminatory, and disregard the natural immunity of employees, disregard individual health circumstances of employees, and disregard current immunisation principles.
4. *Employers who link the Covid-19 vaccination (or any other medical treatment/procedure) status to their employment status or employment conditions, are committing an act of discrimination against people who can and who cannot exercise their human rights.*

Introduction

My name is Alexandru Dan Malancioiu and I make this submission to support the present Bill as a private citizen, and a person deeply affected by the Covid-19 vaccination mandates.

As a result of the aforementioned mandates, I have practically lost my job ('practically' because while I have not been dismissed yet, I am not allowed to attend my workplace and I am on an

indefinite suspension without pay), I am at risk of losing the roof over my head, and my future looks very uncertain. From a financially stable person with hopes for a self-funded retirement, I have been thrown back into a government financed existence for the foreseeable future.

Reasons for supporting the present Bill

I support the Bill for the following reasons:

1. The High Court of Australia case of *Rogers v Whitaker* (1992) 175 CLR 479 established that
 - a. “a person is entitled to make his/her own decisions about his/her life”, which is a “paramount consideration” and,
 - b. the above consideration takes precedence to the concept of ‘appropriate standard of care’.(<https://www.survivelaw.com/post/rogers-v-whitaker-1992-175-clr-479>).

In this decision, The High Court of Australia established that a doctor has ‘the duty to warn patients of a material risk inherent in a proposed treatment.’

With regard to the Covid-19 injections, because they are a new product, used for the first time in humans, the short-term risks were vaguely known, and the long-term risks are totally unknown. Consequently, no doctor can fulfil their duty to ‘warn [their] patients of a material risk inherent in a proposed treatment.’ I certainly was not told by my GP or by my employer of these risks.

Currently it is well-known that short-term adverse effects of the Covid-19 injections include myocarditis, pericarditis, autoimmune diseases, and even death (more information available on the TGA website).

Since the personal material risk for any treatment/procedure (including Covid-19 injections) is assumed by the employee, only the employee (not the employer) has the right to accept or reject it, just as The High Court of Australia decision stipulates. Hence, the employer does not have a say in the personal health decisions of their employees.

Different employees have different personal medical circumstances, which are managed by health care professionals according to the employees’ particular needs. The employee – health care professional relationship is, and must remain independent of the employee – employer relationship to avoid acts of coercion and undue pressure regarding medical treatments/procedures, and personal medical decision making.

Consequently an employer cannot make an employment decision based on the Covid-19 vaccination (or any other treatment/procedure) status, because it would be inherently coercive, out of scope and discriminatory.

2. Since Covid-19 injections, are a product never before used in humans, with unknown long-term risks, the principle of ‘informed consent’ loses all significance. This is unacceptable.

The principle of ‘informed consent’ is the foundational principle in modern Medicine as practised in Australia. It is applied across all specialties, across all medical practitioners, across all patients with capacity, and across all health care organisations on a daily basis. Examples of the application of the principle of informed consent include:

- ‘Do not resuscitate’ requests,
- ‘No blood transfusions’ requests (for Jehovah’s Witnesses believers),

- patients who discharge themselves from the hospital against medical advice.

The very existence of these practices is an *implied recognition and contractual acceptance* by governments and medical practitioners of their limitations in the performance of their duties imposed by our individual, human rights. By these practices, they continually:

- a. acknowledge and accept their lack of authority over the health decisions of individual persons,
- b. acknowledge and accept their lack of jurisdiction over an individual person's body, and
- c. acknowledge and accept the human rights of individual persons, namely the right to self-determination and informed consent.

If these principles apply to patients, sick people, who initially sought medical assistance but found that the medical advice received or medical procedure offered was unacceptable (for whatever reasons, reasons with which medical practitioners may disagree, but they are not allowed to dismiss and enforce their own views), how much more should these principles apply to healthy people with capacity, who do not request any assistance and/or advice?

Moreover, if these principles apply to the professional relationship patient – health care professional, how much more should they apply to employer – employee relationship, which is an independent, non-health related relationship?

Upon careful consideration, I decided against the Covid-19 injection based on solid research and reasoning. *I am informed* with regard to the active ingredients in the mRNA injections, with regard to their mechanism of action, with the fact that human fetal cells have been used in their production, with the possible short-term adverse effects on my health and well-being, with the fact that there are no long-term safety and genotoxicity studies, and therefore I am informed regarding the possible risk-reward ratio of this procedure for myself and for the community.

I am informed, and I do not consent to these substances to be injected, or in any other way delivered into my body. *I maintain the view that individual persons with capacity have the inalienable right to make their own individual health decisions, and to control the chemicals and substances placed into their body. No government, government department, government agency, or employer has the right to enforce a medical procedure on a person with capacity against their informed consent.*

Yet, for exercising my right to informed consent I, and many others like me, find ourselves discriminated against, without work, and with an uncertain future.

Therefore, any employment decision based on the Covid-19 vaccination status, or any other vaccination or medical procedure, is inherently discriminatory against the employees whose point of view differs from their employer's, and who exercise their informed consent rights.

3. Regarding natural immunity, Services Australia website clearly states: ‘**natural immunity** – if your patient doesn't need a vaccine because they have a natural immunity to the disease they don't need to get that vaccine to be considered up to date with their vaccinations.’

Source: <https://www.servicesaustralia.gov.au/immunisation-medical-exemptions-for-health-professionals?context=23401>

My natural immunity, and that of the entire population of Queensland were completely disregarded when vaccine mandates were introduced. No mention was made about it, and no opportunity was provided for members of the public, to be tested for natural immunity before deciding whether to accept or not a medical procedure involving novel technology and substances never before used in humans.

On the contrary, when I wanted to check my natural immunity against the Covid-19 virus, I was prevented from doing so by my GP and the Specialist to whom he referred me. In fact, the specialist to whom I was referred, refused to even see me after talking to my GP.

It is common knowledge that natural immunity is superior to induced immunity, and any medical practitioner should be able to confirm this.

How can a medical procedure/treatment be enforced ('required'?) by an employer without any regard for the individual health circumstances of their employees? What right does an employer have to coerce an employee to take the Covid-19 (preventive) treatment against their will and disregard the employee's natural immunity?

An employment decision based on the Covid-19 vaccination status, particularly blanket employment decisions, are by definition medically discriminatory, and disregard the natural immunity of employees, disregard individual health circumstances of employees, and disregard current immunisation principles.

4. Covid-19 vaccination employer mandates are a violation of internationally recognised Human Rights and discriminate against people who can and who cannot exercise their human rights.

People have many reasons to accept or reject a medical procedure/treatment, including the Covid-19 injection. Some people will exercise their human rights and accept the Covid-19 injection, while the rest must have the same right to exercise their human rights to reject the Covid-19 injection.

Any employer mandated medical procedure (including Covid-19 vaccination) is a clear violation of Australia's international legal obligations and commitments in the area of Human Rights, **particularly of** our human right of self-determination, and of freedom of thought, conscience and religion. Australia's international commitments take precedence of any State authority, and of any individual employers, organisations, government departments or government agencies' mandates, directives, policies and rules.

These lower authorities have absolutely no authority or right to issue and enact such mandates, directives, policies and rules in violation of legally binding international covenants which Australia signed.

Employers who link the Covid-19 vaccination (or any other medical treatment/procedure) status to their employment status or employment conditions, are committing an act of discrimination against people who can and who cannot exercise their human rights.

Conclusion

Employers who 'require' and 'mandate' Covid-19 injections are committing grave acts of discrimination against their employees, in violation of current health practice principles, in violation of legal precedent, and in violation of international covenants Australia signed.

As a victim of this discrimination, I fully support the present Bill.