

June 3, 2021

Dr. Mark S. Schlissel
University of Michigan
2074 Fleming Administration Building
503 Thompson Street
Ann Arbor, Michigan 48109-1340

RE: Mandatory Vaccine for students

Dear Dr. Schlissel:

Please be advised that I have been asked by _____ to write a letter on behalf of their student _____, who will be attending the University of Michigan in the fall. I am writing this letter to implore the University of Michigan not to mandate vaccines for students in the fall of 2021.

As you may be aware, there are several legal issues associated with making the vaccine mandatory, particularly for a university. While the list I will cover in this letter is not exhaustive, it is designed to give you information to consider with regards to mandating vaccines that have only been approved for "Emergency Use."

Mandating students, faculty, or staff to receive the vaccine as a prerequisite and condition to attending class, completing coursework, and graduating not only defies common sense, but all applicable law.

The vaccines that are being offered from Pfizer, Moderna, and Johnson & Johnson have all been granted only Emergency Use Authorization under the FDA. 21 U.S.C. §360bbb. The EUA statute explicitly states that administration of all EUA products must "ensure that individuals to whom the product is administered are informed ... of the option to accept or refuse administration of the product."¹ Federal and state law on this point stem from the first principle of the *Nuremberg Code* that **the human subject be "so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress or**

¹ 21 U.S.C. Sec. 360bbb-3(e).

other forms of constraint or coercion.² This is a bright line that cannot be blurred. Consent of the individual is “absolutely essential.”³

At an Advisory Committee on Immunization Practices (“ACIP”) meeting in August 2020, where ACIP Executive Secretary, Dr. Amanda Cohn, stated⁴:

“I just wanted to add that, just wanted to remind everybody, that under an Emergency Use Authorization, an EUA, **vaccines are not allowed to be mandatory**. So, early in this vaccination phase, **individuals will have to be consented and they won’t be able to be mandated**.

The law is clear: states, and therefore public schools and universities, cannot mandate experimental products and are preempted from mandating any EUA products.⁵

In addition to this clear statement of law disallowing a vaccine mandate, under 42 U.S.C. § 247d-6d individuals that are harmed by the vaccines have the right to bring a civil action for damages as a result of any injury that they sustain from the vaccine. § 247d-6d provides protections for vaccine manufacturers and others involved in the delivery of the vaccines, however, it does not provide protections for public or private universities that require the vaccine.

Certainly, a student who is required to be vaccinated to attend University of Michigan in the fall will be able to sue the University for damages suffered as a result of taking the vaccine. According to information on FDA.gov for the Pfizer vaccine, the risks include death, severe systemic illness, and significant acute renal, hepatic, or neurologic dysfunction.

“We’ve never seen this level of side effects for any vaccine without the FDA taking action,” Dr. Angelina Farella, pediatric medical director for America’s Frontline Doctors, said in a statement. “The Rotavirus vaccine was pulled for 15 cases of non-lethal side effects and the Swine Flu vaccine was pulled for 25 deaths. But now, by the CDC’s own data, we are seeing a

² THE NUREMBERG CODE [from Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10. Nuremberg, October 1946–April 1949. Washington, D.C.: U.S. G.P.O, 1949–1953.

³ *Ibid.*

⁴ US Centers for Disease Control (September 2020), *August 2020 ACIP Meeting - COVID-19 vaccine supply & next steps*. https://www.cdc.gov/vaccines/videos/low-res/acipaug2020/Covid-19Supply-NextSteps_3_LowRes.mp4 (@ 1:14:40).

⁵ See <https://www.fda.gov/media/136598/download>; https://en.wikipedia.org/wiki/Polymerase_chain_reaction; <https://www.sciencemag.org/features/2018/05/pcr-thirty-five-years-and-counting> ; <https://www.genome.gov/about-genomics/fact-sheets/Polymerase-Chain-Reaction-Fact-Sheet>; <https://www.fda.gov/consumers/consumer-updates/coronavirus-disease-2019-testing-basics>; <https://www.mayoclinic.org/diseases-conditions/coronavirus/expert-answers/covid-antibody-tests/faq-20484429>; <https://www.centerforhealthsecurity.org/covid-19TestingToolkit/testing-basics/types-of-COVID-19-tests/antigen-and-molecular-tests.html>; https://gis.cdc.gov/grasp/fluview/flu_by_age_virus.html; *Ibid.*; <https://www.scientificamerican.com/article/heres-how-coronavirus-tests-work-and-who-offers-them/>

12,000 percent increase in deaths with these vaccines and they're still talking about giving this to our kids.”

While the massive under-reporting problems with VAERS has yet to be fixed at the time of this writing, VAERS nonetheless reports 4,406 deaths and 310,947 adverse events following COVID vaccines between December 15, 2020 and May 21, 2021.⁶ Reviewing the numbers of the Center for Disease Control (“CDC”), COVID-19 has an overall 99.74% survival rate.⁷ *Therefore, why is the University of Michigan mandating an experimental and dangerous protocol to help individuals overcome a cold that has a 0.26% chance of killing the average adult, a 0.1% chance of killing a graduate-age student, and a ~0.01% chance of killing the college-age student?*⁸

In addition to the very real possibility of a personal injury lawsuit if the College requires mandatory vaccines, there is the possibility of federal lawsuits for violation of First Amendment rights. Please see the article from The Gospel Coalition regarding the use of fetal cells in two of the three vaccines being offered presently. (<https://www.thegospelcoalition.org/article/the-faqs-fetal-cells-covid-19-vaccines-treatments/>) This article is one of many that explains for Christians the concerns about the fetal cells that were used in the development of the vaccines. Many Christians have voiced concerns about the use of fetal cells and not wanting to be seen, in any way, as participating or condoning the abortion of a human baby. Forcing students to take a vaccine that has used or presently utilizes fetal cells would be a violation of the student's first amendment rights.

Requiring students to get a vaccine in order to attend the University of Michigan would also violate a student's Fourteenth Amendment to equal protection under the law. Each student has a right to privacy and a right to decide what to inject into their body. To discriminate against students who decide not to take the vaccine clearly fails to provide them with equal protection.

Illegal De Facto Mandates

To the extent the University of Michigan decides to “pull back” its express, unlawful mandate that students receive the shot in order to attend school in the Fall by making receipt “voluntary” but subject to conditions is similarly unlawful. A “voluntary” COVID shot, or test is a *de facto* mandate if an institution:

- **Does not give information** on the EUA mRNA injectables and recombinant vaccines or EUA test being voluntary, either by omission or commission;
- **Does not fully inform potential recipients of the known and potential risks** of the EUA mRNA injectables and recombinant vaccines or EUA test;

⁶<https://www.medalerts.org/vaersdb/findfield.php?TABLE=ON&GROUP1=CAT&EVENTS=ON&VAX=COVID19>

⁷ <https://www.cdc.gov/nchs/covid19/covid-19-mortality-data-files.htm>.

⁸ *Ibid.*

- **Encourages and allows peer pressure, bullying or discrimination from professors, students, or other community members** to get an EUA mRNA injectable, EUA recombinant vaccine, or EUA test;
- **Forces frequent EUA testing on those who cannot or do not want an EUA mRNA injectable or EUA recombinant vaccine;**
- Does not keep EUA vaccine status or EUA test results confidential, violating HIPAA and FERPA;
- **Coerces students and staff into taking EUA mRNA injectables, recombinant vaccines or tests by threatening to remove campus privileges,** like dining hall, dorms, and in-person classroom learning;
- Falsely imprisons a student or employee in a home, dorm, hotel, other building, or even confines her to a geographic area, under duress of losing employment or privileges – such as on-site or cafeteria privileges — for refusing an EUA mRNA injectable, recombinant vaccine or test;
- **Imposes punitive measures for those who do not want an EUA mRNA injectable,** recombinant vaccine, or EUA test, like masking, distancing, withholding of privileges, separated learning, eating, or working, or, as here, withholding of practicum attendance or graduation;
- **Issues a reward or special community privilege to those who get an EUA mRNA injectable, recombinant vaccine or test,** like a sticker, armband, QR code, or an app dictating where someone can enter, creating a discriminatory environment for those who do not don the “reward” pass.

Here, should the University of Michigan proceed as currently stated, it is in violation in *all* the scenarios listed, above, and the University of Michigan’s unlawful conduct would subject it to liability.

CONCLUSION

In sum, we hereby demand that the University of Michigan:

- (1) immediately cease and desist with the policies, emails, statements, or other expressions related to the above-cited vaccine mandates;
- (2) issue an immediate written letter to *all* faculty, staff, students, and parents sent by e-mail and regular mail
 - (i) retracting all such statements,

(ii) explaining that no educational classes, graduations, certificates, units, or any other privileges will be withheld based on vaccination status,

(iii) giving notice that the University of Michigan will comply with the EUA, *Health & Safety Code*, and other applicable law, and not mandate any experimental protocols, whether that be COVID vaccination, PCR testing, or the use of face masks or coverings to contain viral transmission;

(3) as described above, survey students and staff weekly until such time as 90%+ understand that COVID vaccines, masks, and PCR testing is not mandatory, there are risks associated therewith, and what school resources are available to them to prevent and rectify misinformation; and

We thank you for your attention to the above and request a response to this letter no later than June 27, 2021.

Sincerely,

Gregory A. Stapp

GAS:ld