

LIBERTY COUNSEL



DISTRICT OF COLUMBIA
109 Second Street NE
Washington, DC 20002
Tel 202-289-1776
Fax 407-875-0770
LC.org

FLORIDA
PO Box 540774
Orlando, FL 32854
Tel 407-875-1776
Fax 407-875-0770

VIRGINIA
PO Box 11108
Lynchburg, VA 24506
Tel 407-875-1776
Fax 407-875-0770
Liberty@LC.org

REPLY TO FLORIDA

August 19, 2021

VIA FACSIMILE AND EMAIL

Michael Grebe, Chief Legal Officer
Advocate Health Care / Advocate Aurora Health
750 W. Virginia Street
Milwaukee, WI 53204
Fax: (414) 299-1631
michael.grebe@aah.org

RE: Advocate Health's Unlawful Religious Exemption Form

Dear Mr. Grebe:

WE ARE WRITING TO ADVISE YOU THAT ADVOCATE HEALTH'S RELIGIOUS EXEMPTION FORM IS UNLAWFUL. WE ARE ACTIVELY SEEKING CLIENTS FOR PRO BONO REPRESENTATION IN INDIVIDUAL AND CLASS ACTION LAWSUITS. YOUR IMMEDIATE ATTENTION, RESPONSE AND CORRECTIVE ACTION IS REQUIRED TO AVOID LITIGATION.

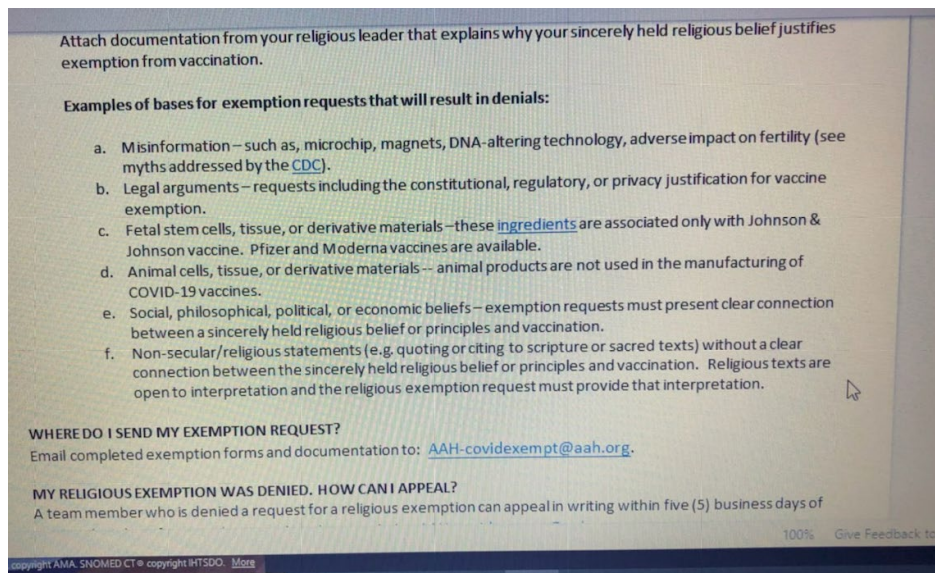
Liberty Counsel is a national non-profit litigation, education and public policy organization with a particular focus on religious freedom and the sanctity of human life. Liberty Counsel has engaged in extensive litigation in the last 18 months regarding civil rights violations purportedly justified by COVID-19, and has had great success holding both government entities and private actors accountable. *See, e.g., Harvest Rock Church, Inc. v. Newsom*, 141 S. Ct. 1289 (2021) (permanent injunction granted and **\$1,350,000 in attorney's fees awarded** in *Harvest Rock Church, Inc. v. Newsom*, No. 2:20-cv-06414, C.D. Cal., May 17, 2021); *Harvest Rock Church, Inc. v. Newsom*, 141 S. Ct. 889 (2020); *Elim Romanian Pentecostal Church v. Pritzker*, 962 F.3d 341 (7th Cir. 2020); *Maryville Baptist Church, Inc. v. Beshear*, 957 F.3d 610 (6th Cir. 2020).

I write on behalf of hundreds of employees at Advocate Health Care and/or Advocate Aurora Health ("Advocate" or "AAH") in Illinois and elsewhere who are requesting religious exemptions and accommodations from the AAH Mandatory COVID-19 Vaccination Policy (Policy). Many of these individuals have engaged Liberty Counsel to bring legal action against Advocate, in the event their religious exemption requests are denied, and we are actively seeking to represent pro bono additional AAH employees who are adversely affected by AAH's illegal mandate and exemption process.

I understand that AAH has issued its Policy of requiring COVID-19 shots for all, with purported exemptions for medical and religious reasons. Yet, AAH has promulgated a “Denial List” which makes **false** claims about aborted fetal cell lines, and which **unlawfully** purports to judge as invalid and dismiss the religious beliefs of employees. It is not up to AAH or its HR department to coerce an employee to not apply for religious accommodation or to argue either theologically or scientifically against their sincerely held religious beliefs.

Shockingly, AAH has preordained that certain employees’ religious beliefs undergirding their requests for a religious exemption “will result in denials.” The list of preordained denials (“Denial List”) include the following purportedly factual and religious matters (see original screenshot below):

- ...
- c. **Fetal stem cells, tissues or derivative materials – these ingredients are associated only with Johnson & Johnson vaccine. Pfizer and Moderna vaccines are available.**
- ...
- f. **Non-secular/religious statements (e.g. quoting or citing to scripture [sic] or sacred texts) without a clear connection between the sincerely held religious belief or principles and vaccination. Religious texts are open to interpretation and the religious exemption request must provide that interpretation.**



A. The AAH Denial List is patently false as to the “association” between aborted fetal cells and COVID-19 mRNA shots.

All three of the currently available COVID-19 vaccines are produced by, derived from, manufactured with, tested on, developed with, or otherwise connected to or “associated” with aborted fetal cell lines. There is no question about the accuracy of this determination, and AAH is categorically false in its contrary directive to employees.

The North Dakota Department of Health, in its handout literature for those considering one of the COVID-19 vaccines, notes the following: “[t]he non-replicating viral vector vaccine produced by Johnson & Johnson **did require the use of fetal cell cultures, specifically PER.C6, in order to**

produce and manufacture the vaccine.”¹ (emphasis added). The Louisiana Department of Health likewise confirms that the Johnson & Johnson COVID-19 vaccine, which used PER.C6 fetal cell line, “is a retinal cell line that was **isolated from a terminated fetus in 1985.**”² (emphasis added).

The same is true of the Moderna and Pfizer/BioNTech mRNA vaccines, despite AAH’s false statement to the contrary. The Louisiana Department of Health’s publications again confirm that aborted fetal cell lines were used in the “proof of concept” phase of the development of their COVID-19 mRNA vaccines.³ The North Dakota Department of Health, in its handout literature on COVID-19 vaccines, notes that **for the Pfizer and Moderna vaccines:** “[e]arly in the development of mRNA vaccine technology, fetal cells were used for ‘proof of concept’ (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein.”⁴ And, the Los Angeles County Department of Public Health has made clear that, **for both the Pfizer and Moderna Vaccines,** “a cell line was used to test the efficacy of both vaccines.”⁵

Therefore, AAH’s entire premise for excluding religious beliefs premised on the demonstrable and undeniable association between all three COVID-19 vaccines and aborted fetal cell lines is patently false, and the exclusion of those beliefs is unlawful and discriminatory. **AAH must immediately revise its unlawful religious exemption form, and must afford a reasonable opportunity to employees who wish to revise their religious exemption requests because they relied on AAH’s illegal directive to exclude protected religious beliefs from their initial requests.**

B. AAH is Prohibited from Discriminating against Religious Beliefs and is Not Permitted to Inquire into the Correctness of its Employees’ Sincerely Held Religious Beliefs.

AAH proclaims the following laudable spiritual beliefs as an affiliate with the Evangelical Lutheran Church in America (ELCA) and the United Church of Christ (UCC), which AAH sets forth under “Our Spiritual Values:”⁶

Spiritual Beliefs

- Advocate, faithful to its religious heritage and affiliation with the Evangelical Lutheran Church in America and the United Church of Christ, provides **health care that is rooted in a belief that all persons are created in the image of God.**
- We **affirm the worth and spiritual freedom of all persons** and seek to treat them with **respect and dignity.**
- We believe that health encompasses physical, emotional, relational, **ethical and spiritual concerns and that God is the source of all healing.**

¹ North Dakota Health, *COVID-19 Vaccines & Fetal Cell Lines* (Apr. 20, 2021), available at https://www.health.nd.gov/sites/www/files/documents/COVID%20Vaccine%20Page/COVID-19_Vaccine_Fetal_Cell_Handout.pdf

² Louisiana Department of Public Health, *You Have Questions, We Have Answers: COVID-19 Vaccine FAQ* (Dec. 12, 2020), available at https://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/immunizations/You_Have_Qs_COVID-19_Vaccine_FAQ.pdf

³ Louisiana Department of Public Health, *You Have Questions, We Have Answers: COVID-19 Vaccine FAQ* (Dec. 12, 2020), available at https://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/immunizations/You_Have_Qs_COVID-19_Vaccine_FAQ.pdf.

⁴ See North Dakota Health, *COVID-19 Vaccines & Fetal Cell Lines* (Apr. 20, 2021), available at https://www.health.nd.gov/sites/www/files/documents/COVID%20Vaccine%20Page/COVID-19_Vaccine_Fetal_Cell_Handout.pdf (last visited Aug. 10, 2021) (emphasis added).

⁵ See Los Angeles County Department of Public Health, *COVID-19 Vaccines & Fetal Cell Lines* (Apr. 20, 2021), available at http://publichealth.lacounty.gov/media/Coronavirus/docs/vaccine/VaccineDevelopment_FetalCellLines.pdf

⁶ <https://www.advocatehealth.com/about-us/faith-at-advocate/>

- We believe that spiritual practices and supportive relationships **enhance health and well-being.**

(Emphasis added).

Under the AAH Denial List, however, an employee who requests a religious exemption *using excerpts from the identical statement of AAH “Spiritual Values”* would receive an automatic denial. An employee who objects to any of the COVID shots because of their developmental or production association with aborted fetal cell lines (based on the same AAH “**belief that all persons are created in the image of God,**” including the unborn; or because the employee “**affirms the worth...of all persons**” including the unborn whose remains were used in testing, developing or producing COVID shots; or because of “**ethical and spiritual concerns and that God is the source of all healing**” and the employee does not wish to rely upon an abortion-associated COVID vaccine as a source of healing; or simply based on “**spiritual practices**” upon which the employee relies to “**enhance health and well-being,**” rather than the abortion-associated COVID shot), would be denied and terminated.

AAH employees are requesting religious exemptions that are not inconsistent with the tenets or doctrines of the Evangelical Lutheran Church in America (and in fact are entirely consistent with such religious tenets). AAH must accommodate its employees’ sincerely held religious beliefs and objections to the Mandatory COVID-19 Vaccine Policy.

Critically, however, even if AAH (or the Evangelical Lutheran Church) disagrees with the religious beliefs of AAH employees, AAH is not permitted to determine which religious adherent has a correct understanding of religious doctrine, or whether an employee’s sincerely held religious beliefs are shared broadly among members of his or her faith. As the Supreme Court has recognized, an individual’s “religious beliefs need not be acceptable, logical, consistent, or comprehensible to others” to warrant protection. *Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 714 (1981). *See also Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531 (1993) (same). In fact, the law provides protection for sincerely held religious beliefs even when some members of the same religious organization, sect, or denomination disagree with the beliefs espoused by the individual. That some individuals or groups may have sincerely held religious beliefs that differ from those espoused by some of AAH’s employees requesting an exemption from the Mandatory COVID-19 Vaccination Policy is irrelevant to whether their sincerely held religious beliefs are entitled to protection. Indeed,

[i]ntrafaith differences of that kind are not uncommon among followers of a particular creed, and the judicial process is singularly ill equipped to resolve such differences . . . and the guarantee of free exercise is not limited to beliefs which are shared by all of the members of a religious sect. Particularly in this sensitive area, it is not within the judicial function and judicial competence to inquire whether the petitioner or his fellow worker more correctly perceived the commands of their common faith. Courts are not arbiters of scriptural interpretation.

Thomas, 450 U.S. 829, 715-16 (emphasis added).

The employees who have requested representation by Liberty Counsel include those with sincerely held religious beliefs that all life is sacred, from the moment of conception to natural death, and that abortion is a grave sin against God and results in the murder of an innocent life. Their sincerely held religious beliefs are rooted in Scripture’s teachings that “[a]ll Scripture is given by inspiration of

God, and is profitable for doctrine, for reproof, for correction, [and] for instruction in righteousness.” *2 Timothy* 3:16 (KJV). Although legally it makes no difference, their religious beliefs are entirely consistent with the doctrine of the ELCA. *See ELCA - A Social Statement on: ABORTION:*⁷

- “If we [the ELCA] are to take our differences [on abortion] seriously, we must learn how to talk about them in ways that do justice to our diversity.”
- “Human beings, created in God’s image as male and female (Genesis 1:27-28), are persons of intrinsic value and dignity.”
- “All of life is a mysterious, awesome gift of God. Biblical passages express the God-given mystery of creation (Psalm 139; Jeremiah 1:5; Isaiah 40:26ff; Luke 1:41; Acts 17:24-25).”
- “Human life in all phases of its development is God-given and, therefore, has intrinsic value, worth, and dignity. Guided by God’s Law, which orders and preserves life, human beings are called to respect and care for the life that God gives.”
- “As a community of faith we seek to live out our support for life in all its dimensions.”
- “Because of the Christian presumption to preserve and protect life, this church, in most circumstances, encourages women with unintended pregnancies to continue the pregnancy.”
- “This church encourages its members to participate in the public debate on abortion in a spirit of respect for those with whom they differ.”

Many AAH employees have sincerely held religious beliefs that God forms children in the womb and knows them prior to their birth, and that because of this, life is sacred from the moment of conception to natural death. *Psalm* 139:13-14 (“For you formed my inward parts; you knitted my together in my mother’s womb. I praise you, for I am fearfully and wonderfully made.” (ESV)); *Psalm* 139:16 (“Your eyes saw my unformed substance; in your book were written, every one of them, the day that were formed for me, when as yet there was none of them.” (ESV)); *Isaiah* 44:2 (“the Lord that made thee, and formed thee from the womb . . .” (KJV)); *Isaiah* 44:24 (“Thus saith the Lord, thy redeemer, and he that formed thee from the womb, I am the Lord that maketh all things.” (KJV)); *Isaiah* 49:1 (“The Lord hath called my from the womb; from the bowels of my mother hath he made mention of my name.” (KJV)); *Isaiah* 49:5 (“the Lord that formed me from the womb to be his servant” (KJV)); *Jeremiah* 1:5 (“Before I formed thee in the belly I knew thee; and before thou camest forth out of the womb I sanctified thee, and I ordained thee.” (KJV)). These employees also have sincerely held religious beliefs that every child’s life is sacred because they are made in the image of God. *See Genesis* 1:26-27 (“Let us make man in our image, after our likeness . . . So God created man in his own image; in the image of God created he him; male and female created he them.” (KJV)). These religious beliefs are also entirely consistent with and based upon the teachings of the ELCA as well.

Many AAH employees also have sincerely held religious beliefs that because life is sacred from the moment of conception, the killing of that innocent life is the murder of an innocent human in violation of Scripture. *Exodus* 20:13 (“Though shalt not kill.” (KJV)); *Exodus* 21:22-23 (setting the penalty as death for even the accidental killing of an unborn child); *Exodus* 23:7 (“the innocent and righteous slay thou not, for I will not justify the wicked.” (KJV)); *Genesis* 9:6 (“Whoso sheddeth a man’s blood, by man shall his blood by shed: for in the image of God made he man.” (KJV)); *Deuteronomy* 27:25 (“Cursed be he that taketh reward to slay an innocent person.” (KJV)); *Proverbs* 6:16-17 (“These six things doth the Lord hate: yea, seven are an abomination to him . . . hands that shed innocent blood.” (KJV)).

⁷ https://download.elca.org/ELCA%20Resource%20Repository/AbortionSS.pdf?_ga=2.45129124.1437137891.1629291048-130052943.1629291048

Many AAH employees also have sincerely held religious beliefs that it would be better to tie a millstone around their neck and be drowned in the sea than bring harm to an innocent child. *See Matthew 18:6; Luke 17:2.*

Because all three of the currently available COVID-19 vaccines are developed, produced from, tested with, researched on, or otherwise associated with the aborted fetal cell lines HEK-293 and PER.C6, many AAH employees' sincerely held religious beliefs compel them to abstain from accepting or injecting any of these products into their body, regardless of the perceived benefit or rationale.

Many AAH employees also have sincerely held religious beliefs that their body is the temple of the Holy Spirit, and that to inject medical products that have any connection whatsoever to aborted fetal cell lines would be defiling the Temple of the Holy Spirit. (*See 1 Corinthians 6:15-20* (“Know ye not that your bodies are the members of Christ? shall I then take the members of Christ and make them members of an harlot? God forbid. . . . What? Know ye not that your body is the temple of the Holy Ghost which is in you, which have of God, and ye are not your own? For ye are bought with a price: therefore glorify God in your body, and in your spirit, which are God’s.” (KJV)).

Thus, while there may be some faith leaders in the ELCA or elsewhere, and other adherents whose understanding of Scripture is different, and who may be willing to accept one of the three currently available COVID-19 vaccines despite their association with aborted fetal cell lines, that is irrelevant to the protection of AAH employees who sincerely believe otherwise. Moreover, as noted, these sincerely held religious beliefs are also entirely consistent with ELCA doctrine, which encourages “its members to participate in the public debate on abortion in a spirit of respect for those with whom they differ.” It is hardly “respectful” for AAH to mandate shots which violate the “diversity” of conscience and religious beliefs of its employees, upon threat of employment termination.

In sum, if AAH refuses to even allow, or to consider and grant, religious exemptions based upon sincerely held religious objections to the association between COVID-19 vaccines and aborted fetal cell lines, AAH violates the law. We will bring legal action against AAH on behalf of adversely affected employees.

C. AAH Employees Maintain the Right to Refuse Unwanted Medical Care Under Illinois Law.

Illinois law dictates that employees at AAH have the fundamental right to determine what medical care to accept and refuse. A person's right to refuse or accept medical care is not one to be interfered with lightly. As Justice Cardozo stated, “Every human being of adult years and sound mind has a right to determine what shall be done with his own body; and a surgeon who performs an operation without his patient's consent commits an assault, for which he is liable in damages.” *Cohen v. Smith*, 269 Ill. App. 3d 1087, 1095 (1995) (quoting *Schloendorff v. Society of New York Hospital* (1914), 211 N.Y. 125).

Indeed, the **Illinois Health Care Right of Conscience Act**, 745 ILCS § 70/1 *et seq.*, applies to AAH employees, and expressly prohibits public **and private** entities like AAH from taking adverse employment or education action against anyone who declines a COVID injection on the basis of conscience or religious belief:

Findings and policy. The General Assembly finds and declares that **people and organizations hold different beliefs about whether certain health care services are morally acceptable**. It is the public policy of the State of Illinois to **respect and protect the right of conscience of all persons who refuse to obtain, receive or accept**...health care services and medical care whether acting individually, corporately, or in association with other persons; and **to prohibit all forms of discrimination, disqualification, coercion, disability or imposition of liability upon such persons or entities by reason of their refusing to act contrary to their conscience or conscientious convictions** in...refusing to obtain, receive, accept, ...health care services and medical care.

745 ILCS 70/2. (Emphasis added). The General Assembly has accordingly prohibited:

Discrimination. It shall be unlawful for **any person, public or private institution**, or public official to discriminate **against any person in any manner**, including but not limited to, licensing, **hiring, promotion**, transfer, staff appointment, hospital, managed care entity, **or any other privileges, because of such person's conscientious refusal to receive, obtain, accept**, perform, assist, counsel, suggest, recommend, refer or participate in any way in **any particular form of health care services contrary to his or her conscience**.

745 ILCS 70/5. (Emphasis added). In addition to this broad non-discrimination provision that expressly applies here, the Illinois Legislature has also specifically outlawed employment discrimination as well:

Discrimination by employers or institutions. It shall be **unlawful for any public or private employer**, entity, agency, institution, official or person...to deny admission because of, to place any reference in its application form concerning, to orally question about, **to impose any burdens in terms or conditions of employment on, or to otherwise discriminate against**, any applicant, in terms of employment, admission to or participation in any programs for which the applicant is eligible, **or to discriminate in relation thereto, in any other manner, on account of the applicant's refusal to receive, obtain, accept**, perform, counsel, suggest, recommend, refer, assist or participate in any way in **any forms of health care services contrary to his or her conscience**.

745 ILCS 70/7. (Emphasis added). Further, Section 3(a) of the Act defines “Health care” broadly as:

any phase of patient care, including but not limited to [essentially anything]... in connection with the use or procurement of contraceptives and sterilization or abortion procedures...**or other care or treatment rendered by a physician or physicians, nurses, paraprofessionals or health care facility, intended for the physical, emotional, and mental well-being of persons...**

745 ILCS 70/3(a). (Emphasis added). Vaccines are rendered by “paraprofessionals” and other persons, and are indisputably within the coverage of the Act.

Section 3(e) of the Act defines “Conscience” as a “sincerely held set of moral convictions arising from belief in and relation to God, or which, though not so derived, arises from a place in the

life of its possessor parallel to that filled by God among adherents to religious faiths.” 745 ILCS 70/3(e). The Act supersedes “all other Acts or parts of Acts to the extent that any Acts or parts of Acts are inconsistent with the terms or operation of this Act.” 745 ILCS 70/14.

Notably, the Act provides a private cause of action against offending entities, such as AAH. 745 ILCS 70/12. Indeed, demonstrating the reprehensibility of discrimination based on health care decisions, the Act imposes liability for “**threefold the actual damages ... the costs of suit and reasonable attorney’s fees,**” *id.* (emphasis added), “**but in no case shall recovery be less than \$2,500 for each violation in addition to costs of the suit and reasonable attorney’s fees.**” *Id.* (emphasis added).

By mandating that AAH employees submit to one of the COVID-19 vaccines, and by excluding exemptions based on religious opposition to abortion-associated vaccines, AAH runs roughshod over this basic protection. If these employees decide for themselves that they desire to abstain from forcible injection of a COVID-19 vaccine that violates their sincerely held religious beliefs, that is their basic right. Put simply, “[t]he forcible injection of medication into a nonconsenting person’s body represents a substantial interference with that person’s liberty.” *Washington v. Harper*, 494 U.S. 210, 229 (1990) (emphasis added).

D. AAH Employees Maintain the Right to Refuse Unwanted Medical Care Under Federal Law.

In addition to the strong protections afforded by Illinois law, AAH employees in all states enjoy robust conscience protections under federal law. Specifically, Title VII of the Civil Rights Act prohibits AAH from discriminating against its employees on the basis of their sincerely held religious beliefs. *See* 42 U.S.C. §2000e-2(a) (“It shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual’s race, color, religion, sex, or national origin”). *See also EEOC v. Abercrombie & Fitch Stores, Inc.*, 575 U.S. 768 (2015) (same). Title VII defines “religion” as “all aspects of religious observance and practice, as well as belief.” 42 U.S.C. §2000e(j).

The denial of religious accommodations from mandatory vaccine policies has been found unlawful under Title VII in the hospital and health care context. Indeed, hospitals have been sued and lost over forced influenza vaccines. *See, e.g. EEOC v. Mission Hosp., Inc.*, No. 1:16-cv-118-MOC-DLH, 2017 WL 3392783 (W.D.N.C. Aug. 7, 2017) (resulting in permanent injunction against Mission Hospital from improperly denying religious exemptions from mandatory vaccinations and requiring the hospital to pay \$89,000 in damages); *United States v. Ozaukee Cnty.*, No 18-cv-343-pp (E.D. Wis. 2018) (resulting in a permanent injunction against the county for failure to grant religious exemptions from compulsory vaccinations and ordering county to pay \$18,000 in damages to the employee).

Excluding religious beliefs and objections to the abortion-associated COVID-19 vaccines is no different, and will likewise subject AAH to liability under Title VII.

E. The Federal Emergency Use Authorization Statute Prohibits Mandating the COVID-19 Vaccine.

The United States Code provides that

subject to the provisions of this section, the Secretary (of the Department of Health and Human Services) may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in this section as an “emergency use.”

21 U.S.C. §360bbb-3(a)(1) (emphasis added) (“EUA Statute”). Part of the explicit statutory conditions for an EUA under the EUA Statute, the statute mandates that all individuals to whom the product approved for Emergency Use may be administered be given the option to accept or refuse administration of the product. *See* 21 U.S.C. §360bbb-3(e)(1)(A)(ii)(III) (requiring that “individual to whom the product is administered are informed . . . **of the option to accept or refuse administration of the product**” (emphasis added)). The only currently available COVID-19 vaccines (Janssen/Johnson & Johnson, Moderna, and Pfizer/BioNTech) are only authorized for use under the EUA Statute and have no general approval under the United States Code. Thus, the administration of such vaccines cannot be mandatory under the plain text of the EUA Statute.

Even the statutorily required Fact Sheets for each of the EUA-approved COVID-19 vaccines demonstrate that individuals cannot be compelled to accept or receive the vaccine. *See* Moderna, FACT SHEET FOR RECEIPIENTS AND CAREGIVERS (June 24, 2021), <https://www.fda.gov/media/144638/download> (“**It is your choice to receive or not to receive the Moderna COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.**” (emphasis added)); Pfizer-BioNTech, FACT SHEET FOR RECIPIENT AND CAREGIVERS (June 25, 2021), <https://www.fda.gov/media/144414/download> (“**It is your choice to receive or not to receive the Pfizer-BioNTech COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.**” (emphasis added)); Janssen, FACT SHEET FOR RECIPIENTS AND CAREGIVERS (July 8, 2021), <https://www.fda.gov/media/146305/download> (“**It is your choice to receive or not to receive the Janssen COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.**” (emphasis added))).

Thus, under the EUA Statute and as recognized by the manufacturers of the currently available COVID-19 vaccines, individuals have the option to accept or refuse administration of the product, and it cannot be mandatory. AAH’s current Policy ignores this statutory protection and is therefore unlawful.

CONCLUSION AND CORRECTIVE ACTION

As discussed in this letter, AAH cannot compel its employees' compliance with its Mandatory COVID-19 Vaccination Policy when their sincerely held religious beliefs preclude them from compliance. And, prohibiting or even discouraging exemption requests based upon the factually undeniable association between COVID-19 vaccines and aborted fetal cell lines is illegal, even if AAH believes that association to be morally or religiously acceptable.

Liberty Counsel prefers to avoid the need for protracted litigation, and trusts that the authorities outlined in this letter will demonstrate to AAH that its religious exemption form is unlawful, and that denial of its employees' requests for a religious accommodation and exemption would likewise be unlawful.

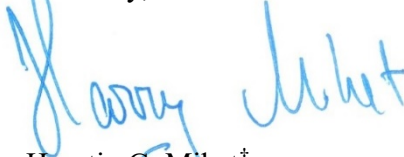
Time is of the essence, in light of AAH's August 27, 2021 deadline for religious exemption requests, and in light of the fact that AAH employees are being misled and discouraged by AAH into excluding some of their protected religious convictions from their religious exemption requests. To avoid legal action, we request that AAH advise us, not later than 5 pm on Monday, August 23, 2021, that:

- 1) AAH has revised, or will promptly revise, its religious exemption form to remove its illegal exclusion of protected religious beliefs based upon the association of COVID-19 vaccines with aborted fetal cell lines;**
- 2) AAH will provide a reasonable opportunity for all employees who have already submitted exemption requests in reliance on AAH's illegal directives and unlawful exemption form to re-submit their exemption forms, so that they can include all of their protected religious beliefs;**
- 3) AAH will not deny any religious exemption requests based upon an employee's sincere religious objection to receiving vaccines developed, tested, or produced using aborted fetal cell lines; and**
- 4) AAH has reversed, or will promptly reverse, any denials it has already issued to employees with religious objections to receiving vaccines developed, tested, or produced using aborted fetal cell lines.**

Should AAH continue in its current course of action, or otherwise fail to timely provide the assurances requested above, Liberty Counsel will be forced to conclude that AAH is ignoring its obligations to provide religious exemptions and accommodations to employees with sincerely held religious objections to the COVID-19 vaccines. In that event, we will proceed swiftly with litigation to obtain emergency relief on behalf of our clients.

Please govern yourselves accordingly.

Sincerely,



Horatio G. Mihet[†]
Vice President of Legal Affairs and Chief Litigation Counsel
Liberty Counsel

CC

Via Email

Richard Mast^{††}

Andreas Mamalakis (local counsel)^{†††}

RMast@lc.org

andreamamalakis@yahoo.com

Via Email to Counsel

Jim Skogsbergh, AAH President and CEO

AAH Leadership

AAH Board of Directors

AAH Media Relations

Jim.Skogsbergh@aah.org

mediarelations@aah.org

[†] Licensed in Florida and Ohio

^{††} Licensed in Virginia

^{†††} Licensed in Illinois