

LIBERTY COUNSEL



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REPLY TO VIRGINIA

October 22, 2020

VIA EMAIL ONLY

Sally N. Barber, Esq.
UVA Health
PO Box 800810
Charlottesville, VA 22908
snb4af@virginia.edu

RE: ██████████ – Religious Exemption Request

Dear Ms. Barber:

Liberty Counsel is a national non-profit litigation, education and public policy organization with an emphasis on First Amendment liberties, with a particular focus on religious freedom and life issues.

Liberty Counsel represents ██████████ in his current religious exemption request, which has been denied by the University of Virginia Health System (“UVA” or “UVA Health”). UVA Health does so much good for the community; yet Immunize UVA is currently violating the religious free exercise rights of an employee as secured to him under Title VII of the Civil Rights Act of 1964.

Mr. ██████████ has repeatedly requested a reasonable accommodation from the UVA Health directive that he accept the flu vaccine, on the basis of his sincerely held Christian religious beliefs that he refrain from accepting anything into his body that would “defile” the body as the temple of the Holy Spirit. For him, this also includes vaccines made from aborted fetal cell lines, or vaccines whose sale contributes to the profits of companies that profit from aborted fetal tissue in the sale of their other vaccines. Mr. ██████████ final request (see attached Exhibit 1) for accommodation of his beliefs and approval of the religious exemption was denied by Immunize UVA on October 19, 2020:

Dear Applicant

We received your third request for a religious exemption under the OCH-002-Health Screening Policy. Your request is denied. **Stating that you are a Christian and citing biblical verses that do not address vaccinations is not sufficient basis for granting an exemption from the vaccine requirement. Christian philosophy does not have absolute rules that must be followed regarding vaccinations. Therefore, your request is one of a personal belief rather than religious doctrine and does not fall within the allowed exemptions.** Please be aware that failure to comply may

result in disciplinary action. Prompt attention to this matter is required. Compliance deadline has been moved up to November 13, 2020.

Thank you
Immunize UVA

(Emphasis added). See attached email, Exhibit 2.

Liberty Counsel is deeply concerned by UVA Health's rejection of Mr. ██████████ longstanding religious exemption request, and threat of "disciplinary action." These strong-arm tactics constitute a pattern and practice by UVA with other employees, who have contacted Liberty Counsel, and who have already filed at least one EEOC complaint.

In evaluating a religious exemption request, UVA may lawfully only ask whether Mr. ██████████ beliefs are 1) religious in nature; and 2) whether they are sincerely held. Instead, UVA has placed itself in judgment of whether Mr. ██████████ beliefs are reasonable, or correct religious doctrine, or whether they are typical of other Christians. Shockingly, Immunize UVA has opined that Mr. ██████████ pro-life beliefs are merely "personal," and not religious. Moreover, UVA has categorically refused to consider a reasonable accommodation, such as allowing him to wear a mask during flu season.

As you know, Title VII of the Civil Rights Act of 1964, as amended, prohibits two categories of employment practices. It is unlawful 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; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities **or otherwise adversely affect his status** as an employee, because of such individual's race, color, **religion**, sex, or national origin." 42 U.S.C. § 2000e-2(a). (Emphasis added).

Furthermore, **42 U.S.C. §300a-7 (c) (2)** prohibits Immunize UVA's discriminatory practices. No entity which receives a grant or contract for biomedical or behavioral research under any program administered by the Secretary of Health and Human Services may –

(A) **discriminate in the employment, promotion, or termination** of employment of any physician **or other health care personnel**, or

(B) **discriminate** in the extension of staff or other privileges to any physician or other health care personnel, because he performed or assisted in the performance of any lawful health service or research activity, **because he refused to perform** or assist in the performance of any such service or **activity on the grounds that his performance** or assistance in the performance of such service or activity **would be contrary** to his **religious beliefs or moral convictions**, or because of his **religious beliefs or moral convictions** respecting any such service or activity.

As an employee of UVA Health Services, Mr. ██████████ is certainly "other healthcare personnel," whose conscience rights are also protected. Numerous current UVA employees who have not been able to take the flu vaccine have been accommodated with masks, yet

UVA is refusing this same accommodation to Mr. ██████████ and has threatened him with suspension and termination.

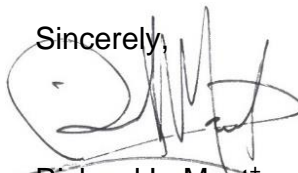
Mr. ██████████ is willing to wear a face covering to help prevent the spread of influenza, while he is on UVA Health property and not working remotely, as he does currently to help prevent the spread of COVID-19. After all, if face coverings or masks are effective in helping prevent the spread of COVID, then surely, they are effective in helping prevent the spread of influenza. Moreover, a percentage of UVA employees who accept the flu shot become symptomatic with influenza, despite having received the vaccine.

We would prefer that UVA Health simply respect religious and conscience rights, and provide a reasonable accommodation of a mask for Mr. ██████████ like it is already doing for other employees. However, UVA is on notice that Mr. ██████████ sincere religious beliefs about the evils of abortion and respect for the human body as the temple of the Holy Spirit mandate his refusal of the flu vaccine, and there exists a reasonable accommodation. These circumstances are remarkably similar to those in the federal complaint filed by US DOJ and EEOC in other flu vaccine religious exemption denials.

The Trump Administration has initiated federal agency enforcement action¹ against recipients of federal funding as well as against those bound by various federal nondiscrimination laws, like Title VII, after Liberty Counsel brought such matters to public light. The linked press releases from the Equal Employment Opportunity Commission (EEOC)² and the U.S. Department of Justice (US DOJ),³ support Liberty Counsel's position, that it is unlawful for an employer to reject the sincerity of religious beliefs underpinning a flu vaccine exemption request, and to refuse a reasonable accommodation. In 2018, one hospital paid \$89,000 to settle a suit after refusing to accommodate and firing employees who declined flu vaccinations based on their religious beliefs.

Therefore, I am requesting that you please confirm to Liberty Counsel by close of business on Monday, October 26, 2020, that Mr. ██████████ religious accommodation request has been granted.

If I do not receive this confirmation, Liberty Counsel will take additional action to prevent irreparable harm to Mr. ██████████ rights and the conscience rights of UVA Health Services workers. Thank you for your consideration of this request.

Sincerely,

Richard L. Mast†

Attachments

CC

Via Email

Immunize UVA

Jennifer C. Slaughter, Esq.

immunizeuva@hscmail.mcc.virginia.edu

jcs2cm@virginia.edu

¹ <https://www.lc.org/newsroom/details/122319-trump-administration-investigating-christmas-decor-ban>

² <https://www1.eeoc.gov/eeoc/newsroom/release/1-12-18.cfm?renderforprint=1>

³ <https://www.justice.gov/opa/pr/justice-department-files-lawsuit-against-ozaukee-county-wisconsin-religious-discrimination>

† Licensed in Virginia

Exhibit 1

██████████ – Religious Exemption Draft for Influenza Vaccine

Please describe the religious principle, tenet, or belief for your request

In accordance with my beliefs, the Bible states that the body is the temple of the God (1 Corinthians 6:19-20).

In addition, Title VII of the 1964 Civil Rights Acts allows me to request an exemption based on sincerely held religious belief which I have detailed below.

Please describe why this principle, tenet or belief conflicts with or precludes you from receiving a vaccination or immunization.

Dear Immunize UVA,

Please consider this my final request for an accommodation of my sincerely-held religious belief that I refrain from accepting a flu shot. I have made this request three times now, and it has been rejected. I have not saved the request, and have had to recreate it, because of the online portal which has not sent me a copy of the requests.

The repetition has been beneficial, because it has caused me to really examine what I truly believe. I am a Christian who believes in the Bible, including the teachings in the New Testament. I have a Christian worldview. This perspective recognizes that faith and conscience compel an individual to submit to the proper jurisdiction within the rule of law, in this case, Divine Law.

Specifically, the New Testament teaches that:

Know ye not that ye are the temple of God, and that the Spirit of God dwelleth in you?

If any man defile the temple of God, him shall God destroy; for the temple of God is holy, which temple ye are. ...

What? know ye not that your body is the temple of the Holy Ghost which is in you, which ye have of God, and ye are not your own?

I Corinthians 3:16-17, 6:19 (KJV).

I believe that my body is the temple of the Holy Spirit, and I must not defile my body with things that are harmful, or which constitute a participation in what the Bible describes as sinful.

The broad prohibition against consuming anything that might “defile” the body, and hence the conscience, is stated again in I Corinthians 8:7:

Howbeit there is not in every man that knowledge: for some with conscience of the idol unto this hour eat it as a thing offered unto an idol; and their conscience being weak is defiled.

Exhibit 1

Again, in 2 Corinthians 7:1, there is this admonition against defiling the flesh and the spirit:

Having therefore these promises, dearly beloved, let us cleanse ourselves from all filthiness of the flesh and spirit, perfecting holiness in the fear of God.

More broadly, the New Testament requires of Christians that we “Render to Caesar the things that are Caesar’s, and to God the things that are God’s.” (Mark 12:17) When it comes to consuming things into our own bodies, as opposed to make payments to government, compliance with God’s law is required.

The mandated vaccine, with its numerous additives and its mechanism for altering my body, is the equivalent of a prohibited “unclean food” that causes harm to my conscience. Vaccines to me are analogous to what non-kosher food is to orthodox Jews, and no one requires anyone in the United States to consume a substance contrary to their faith. Medical experts may assert that non-kosher food and vaccines are completely healthy, but religious faith compels certain individuals to decline their consumption. I am one of those individuals.

I have a sincerely held religious belief in the sanctity of innocent human life, pre-birth, to birth, to natural death. I cannot participate in or benefit from abortion, which is murder according to the Bible. All humans – born and unborn – are made in the image of God.

Accordingly, I cannot accept any vaccination that is derived from aborted fetal tissue, nor contribute to the bottom line of a manufacturer who sells vaccines that are derived from aborted fetal cells.

Even if a vaccine is available that does not utilize aborted fetal cells, if it is sold by a company that also sells vaccines derived from abortion, that company is still profiting from abortion, and I cannot in good conscience benefit from any of its products. I am not aware of any company selling the flu vaccine that does not profit from the sale of vaccines derived from aborted fetal cell lines.

Thus my faith prohibits me from being vaccinated as proposed. Title VII of the 1964 Civil Rights Act and the U.S. Constitution recognize my right to object to consuming something – this vaccine – because it violates my faith. Therefore I respectfully assert my religious objection to this vaccination.

If desired, I will wear a face mask for infective protection during periods of influenza risk, upon receipt of this exemption.

I therefore request an exemption from the mandated vaccine for the glory of God and consistent with my faith. Thank you for your consideration of it.

Respectfully,

██████████

Exhibit 2

From: noreply@hscmail.mcc.virginia.edu <noreply@hscmail.mcc.virginia.edu>

Date: Monday, October 19, 2020 at 4:10 PM

To: [REDACTED]

Subject: Vaxtrax Request Processed

Dear Applicant

We received your third request for a religious exemption under the OCH-002-Health Screening Policy. Your request is denied. Stating that you are a Christian and citing biblical verses that do not address vaccinations is not sufficient basis for granting an exemption from the vaccine requirement. Christian philosophy does not have absolute rules that must be followed regarding vaccinations. Therefore, your request is one of a personal belief rather than religious doctrine and does not fall within the allowed exemptions. Please be aware that failure to comply may result in disciplinary action. Prompt attention to this matter is required. Compliance deadline has been moved up to November 13, 2020.

Thank you
Immunize UVA