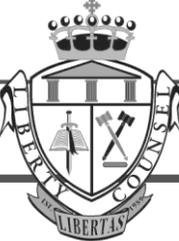


LIBERTY COUNSEL



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

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
Libertv@LC.ora

REPLY TO FLORIDA

September 21, 2021

Via E-mail Only

Mark A. Wallace
President and Chief Executive Officer
mawallac@texaschildrenshospital.org
Exec. Asst.: Susan Stock
smstock@texaschildrens.org

HRCommunications@texaschildrens.org
EmployeeRelations@texaschildrens.org

Texas Children's Hospital
6651 Main Street, Suite E.0520
Houston, TX 77030

Afsheen Davis
Vice President & Deputy General Counsel
asdavis@texaschildrens.org

Sarah Maytum
Vice President, Human Resources
skmaytum@texaschildrens.org

Linda Aldred
SVP and Chief Human Resources Officer
lwaldred@texaschildrens.org

**Re: Unlawful Denials of Religious Exemptions from
Mandatory COVID-19 Vaccination Policy**

**THIS IS A LEGAL DEMAND INCLUDING AN EVIDENCE PRESERVATION
DEMAND.**

**TEXAS CHILDREN'S HOSPITAL'S DENIALS OF RELIGIOUS EXEMPTION
FROM ITS MANDATORY COVID-19 VACCINATION POLICY ARE UNLAWFUL.**

**YOUR PROMPT RESPONSE IS REQUIRED BEFORE FRIDAY, SEPTEMBER 24,
2021 AT 12:00 P.M. TO AVOID A LAWSUIT.**

Dear Messrs. Wallace and Davis, and Ms. Maytum and Aldred:

Liberty Counsel is a national non-profit litigation, education, and public policy organization with an emphasis on First Amendment liberties, and a particular focus on religious freedom and the sanctity of human life. Liberty Counsel has engaged in extensive litigation in the last year regarding civil rights violations ostensibly justified by COVID-19, and has had great success holding both government 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); *Maryville Baptist Church, Inc. v. Beshear*, 957 F.3d 610 (6th Cir. 2020).

I write on behalf of Texas Children's Hospital ("Texas Children's") employees [REDACTED], and numerous others, who are requesting exemption from Texas Children's mandatory COVID-19 vaccination policy as a reasonable accommodation of their sincerely held religious beliefs. [REDACTED] and others have been denied exemptions without explanation beyond TCH's assurances of "a thoughtful and consistent process" "based on the personal belief statement that [they]submitted." Liberty Counsel has reviewed the religious belief statements of [REDACTED], and has concluded they are legally sufficient to require TCH to issue the requested religious exemptions, and therefore their denial (and likely the denial of many others) by TCH is illegal, no matter TCH's assurances and intentionally vague responses including that the decision is "final" and "there is not an appeal process."

Many of these employees have requested that Liberty Counsel bring legal action if Texas Children's continues to deny their religious exemption requests, and fires them as TCH has stated at 5:00 PM today. We are actively seeking to represent, *pro bono*, additional Texas Children's employees who are adversely affected by Texas Children's illegal mandate and exemption process.

In brief recap, I understand Texas Children's mandated employees receive one of the three available COVID shots by September 21, 2021, at 5:00 PM. Requests for religious and medical exemptions were permitted up to September 1, 2021. Many employee religious or medical exemption requests were timely submitted, but TCH has denied them and refused to respond substantively to requests to understand what in our clients' religious exemption requests was insufficient in the opinion of TCH. Those employees whose requests were denied have been told there is no appeal, and that they must upload proof of their COVID shots before 5:00 PM today or they will be fired. TCH has attempted to camouflage its apparent policy **to deny requests, regardless of merit**, solely to pressure as many employees as possible to abandon their meritorious requests and violate their consciences to keep their jobs.

A. Texas Children's Unlawful Denials of Religious Exemption Requests From [REDACTED]

[REDACTED]'s religious exemption request referenced the COVID shots' close connection, development and/or testing via the remains of aborted children, along with sincere prayer to God for guidance, and an understanding of God's direction to her that she must forego receiving the COVID shots. Her exemption request form is attached hereto as **Exhibit 1**. Excerpts of Texas Children's denials of [REDACTED]'s requests for religious exemption from the COVID-19 vaccine are as follows and are identical to those sent to [REDACTED] and [REDACTED] and to other employees:

Denial 1: Email from Sarah Maytum, Vice President, Human Resources, sent Thursday, September 9, 2021:

You submitted a timely request for an exemption from receiving the Covid-19 vaccine due to your sincerely held religious beliefs or practices. After careful consideration, your request for religious exemption has been denied. **This decision is final and there is not an appeal process for reconsideration.**

Denial 2: Email from Sarah Maytum, Vice President, Human Resources, sent Thursday, September 16, 2021 (in response to [REDACTED]'s request for a rationale behind the denial of her religious exemption request):

Texas Children's made organizational decisions about the reasons for religious exemption that would be approved at this time. Your personal belief statement which you submitted before September 1, 2021 was reviewed and a determination was made. I can assure you that Texas Children's followed a thoughtful and consistent process. Human Resources is communicating the results of those decisions to individual employees **based on the personal belief statement that you submitted**. We are not providing additional details regarding those decisions, and apologize for any frustration that may cause you.

(Emphasis added).

B. Texas Children's Unlawful Denials of Religious Exemption Requests From [REDACTED] and [REDACTED]

On August 11, 2021, Linda Aldred, TCH SVP and Chief Human Resources Officer, issued an email to all TCH employees outlining the requirement of TCH's Mandatory COVID-19 Vaccination Policy. A copy of Ms. Aldred's email is attached hereto as **EXHIBIT A** for your ready reference. In that email, Ms. Aldred stated that all TCH employees are required to be fully vaccinated by September 21, 2021. However, as required by federal law, Ms. Aldred's email noted that employees with a medical condition or a sincerely held religious belief preventing them from receiving the COVID-19 vaccine should apply for an exemption to seek accommodation for such religious beliefs by completing the Exemption Request form electronically at the link provided in Ms. Aldred's email.

On August 13, 2021, [REDACTED] and [REDACTED] (who are husband and wife) submitted their COVID-19 Exemption Request forms electronically at the link provided in Ms. Aldred's email, based upon their sincerely held religious beliefs. On August 26, 2021, TCH Employee Relations issued to its employees requesting an exemption a follow-up email requesting a statement describing the deeply held religious belief, practices or observance that prevents the employees from taking the COVID-19 vaccine. A copy of TCH's follow up email to the employees is attached hereto as **EXHIBIT B** for your ready reference. On August 30, 2021, [REDACTED] submitted the requested information related to their religious exemption requests. A copy of the near-identical response submitted by [REDACTED] are attached hereto as **EXHIBIT C**, for your ready reference. In their responses, [REDACTED] informed TCH that they have a sincerely held religious belief that abortion is a sin and that their religious beliefs prohibit them from accepting or receiving a vaccine that is connected in any way to aborted fetal cell lines.

[REDACTED] noted in their individual responses that their own personal religious beliefs prohibit them from accepting a COVID-19 vaccine because COVID-19 vaccines were either tested, developed or produced from fetal cell lines that originated in abortion. In addition, [REDACTED] noted that their sincerely held religious beliefs compel them to search the Scriptures and, following the leading of the Holy Spirit through prayer and reflection, that through such study and prayer, they have been guided to the conclusion that it would be a sin for them to accept a COVID-19 vaccine because of its connections to aborted fetal cell lines.

On September 9, 2021, [REDACTED] received separate emails from Sarah Maytum of TCH Human Resources indicating that TCH had reviewed their requests for an accommodation from the Mandatory COVID-19 Vaccination Policy and that their requests for exemption were denied. A

copy of Ms. Maytum's September 9 emails to [REDACTED] are attached hereto as **EXHIBIT D** and **Exhibit E**, respectively, for your ready reference.

The denial of these employees' religious exemption request is unlawful.

C. Texas Children's Denial Rationale Is Intentionally Vague and Dishonest.

Texas Children's rationale is both intentionally vague and dishonest. The rationale is intentionally vague because Texas Children's does not identify or explain what in the "personal belief statement" that TCH evaluated, leaving the employees to guess what information they could supply to TCH in order to receive a reversal. Indeed TCH states that its "decision is final and there is not an appeal process for reconsideration." This appears calculated to avoid having to explain whether TCH's review was legal, or likely, illegal, and an attempt to avoid accountability in its quest to force as many employees as possible to get the COVID shots, regardless of the legal requirement to liberally grant religious exemptions where such may be accommodated.

The currently-available COVID shots are different than any vaccines an employee has taken in the past that were NOT derived or developed using aborted fetal cells. While some people may hold sincere religious beliefs against taking ANY vaccines, many (indeed most) others only hold religious beliefs against accepting those vaccines derived from aborted fetal cell lines used in testing, development, or manufacturing. Others may have sought God's guidance through prayer, and feel God's conviction in their spirit that they must not get the COVID shots, regardless of whether they were tested with or developed from aborted fetal cell lines.

For example, the North Dakota Department of Health, in its literature for those considering one of the three, currently available 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 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

The same is true of the Moderna and Pfizer/BioNTech mRNA vaccines. The Louisiana Department of Health's publications again confirm that aborted fetal cells 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: "[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

¹ 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 (bold added).

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 (bold added).

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).

D. Texas Children’s Denials of Its Employees’ Religious Exemption Requests Violate Title VII Because Texas Children’s Is Not Permitted to Judge the Validity or Reasonableness of Any Employee’s Sincerely Held Religious Beliefs.

Texas Children’s has no legal authority to tell any employee what that employee’s religion is or ought to be, or to be the arbiter of the validity or reasonableness of any employee’s religious beliefs. Nor does Texas Children’s have the authority to demand that a third party validate any employee’s religious beliefs. An employee’s religious beliefs need only be sincere to merit legal protection and require Texas Children’s accommodation. TCH cannot (successfully) avoid liability for unlawful considerations that are undoubtedly present betrayed by the words **“based on the personal belief statement that you submitted.”**

Title VII of the Civil Rights Act of 1964 prohibits Texas Children’s 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 . . . 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). Moreover, as the EEOC has made clear, Title VII’s protections also extend to nonreligious beliefs if related to morality, ultimate ideas about life, purpose, and death. *See EEOC, Questions and Answers: Religious Discrimination in the Workplace* (July 22, 2008), <https://www.eeoc.gov/laws/guidance/questions-and-answers-religious-discrimination-workplace> (“Title VII’s protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs. Religious beliefs include theistic beliefs (i.e. those that include a belief in God) as well as non-theistic ‘moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.’ Although courts generally resolve doubts about particular beliefs in favor of finding that they are religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns ‘ultimate ideas’ about ‘life, purpose, and death.’”).

Texas Children’s is not permitted to determine which religious adherent has a “correct” or “proper” or “valid” understanding of religious doctrine, or whether any employee’s sincerely held religious beliefs are shared broadly among other faithful. As the Supreme Court has recognized, employees’ “religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection.” *Thomas v. Review Bd. of Ind. Emp’t 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). Additionally, though membership in or adherence to the tenets of an organized religion is plainly sufficient to provide protection for an individual’s sincerely held religious beliefs, it is not a necessary precondition. *See Frazee v. Ill. Dep’t of Emp’t Sec.*, 489 U.S. 829, 834 (1989) (“**Undoubtedly, membership in an organized religious denomination, especially one with a specific tenet forbidding members to work on Sunday, would simplify the problem of identifying sincerely held religious beliefs, but we reject the notion that to claim the protection [for sincerely held religious beliefs], one must be responding to the commands of a particular religious organization.**” (emphasis added)); *see also Office of Foreign Assets Control v. Voices in the Wilderness*, 329 F. Supp. 2d 71, 81 (D.D.C. 2004) (noting that the law provides protection for “sincerely held religious beliefs,” “not just tenets of organized religion”).

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 Texas Children's employees requesting accommodation may have sincerely held religious beliefs that differ from those sincerely held by other individuals and organizations is irrelevant to whether **the employees'** sincerely held religious beliefs are entitled to protection under Title VII. 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.

450 U.S. at 715–16 (emphasis added). The denial of any employee's request for a religious accommodation based on the views of other individuals who do not share the employee's beliefs is unlawful. In fact, **it is legally irrelevant what other individuals think or believe.** Nor does an employee's religious objection to a vaccine need to be unique in order to be personal and sincerely held. Once an employee has articulated **the employee's** sincerely held religious beliefs opposing the currently available COVID-19 vaccines, whether those beliefs are the same as or nothing like any other person's beliefs, the proper inquiry is at its end.

If Texas Children's has violated Title VII with respect to ██████'s request, "**based on the personal belief statement that you [██████] submitted,**" which Liberty Counsel believes it has, based on that same statement, where the statement is legally sufficient, where ██████ and others have followed TCH policy and submitted their religious accommodation requests, verified by personal statements and offers to submit additional "documentation," stating her sincerely held religious beliefs that accepting or receiving any of the three currently available COVID-19 vaccines would be a sin and a violation of her religious beliefs because the vaccines are developed, manufactured, produced, or tested using aborted fetal cell lines and other objectionable materials.

Texas Children's denied ██████'s requests twice, premising its denials on vague and dishonest rationales. Texas Children's cannot simply rebut the employees' testimonies by *ipse dixit*. This is hardly the "interactive process" required by Title VII.

Because all three of the currently available COVID-19 vaccines are developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines HEK-293 and PER.C6, many Texas Children's employees' sincerely held religious beliefs compel them to abstain from accepting or injecting any of these products into their bodies, regardless of the perceived benefits or rationales. Thus, while there may be some faith leaders 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 connection with aborted fetal cell lines, any Texas Children's employee is entitled to interpret the Scriptural commands against murder and polluting the body differently, which many indisputably do.

Many Texas Children’s 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. *See Psalm 139:13–14* (ESV) (“For you formed my inward parts; you knitted me together in my mother’s womb. I praise you, for I am fearfully and wonderfully made.”); *Psalm 139:16* (ESV) (“Your eyes saw my unformed substance; in your book were written, every one of them, the days that were formed for me, when as yet there was none of them.”); *Isaiah 44:2* (KJV) (“the LORD that made thee, and formed thee from the womb”); *Isaiah 44:24* (KJV) (“Thus saith the LORD, thy redeemer, and he that formed thee from the womb, I am the LORD that maketh all things.”); *Isaiah 49:1* (KJV) (“The LORD hath called my from the womb; from the bowels of my mother hath he made mention of my name.”); *Isaiah 49:5* (KJV) (“the LORD that formed me from the womb to be his servant”); *Jeremiah 1:5* (KJV) (“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.”). These employees also have sincerely held religious beliefs that every child’s life is sacred because each is made in the image of God. *See Genesis 1:26–27* (KJV) (“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.”).

Many Texas Children’s 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. *See, e.g., Exodus 20:13* (KJV) (“Though shalt not kill.”); *Exodus 21:22–23* (setting the penalty as death for even the accidental killing of an unborn child); *Exodus 23:7* (KJV) (“the innocent and righteous slay thou not, for I will not justify the wicked”); *Genesis 9:6* (KJV) (“Whoso sheddeth a man’s blood, by man shall his blood by shed: for in the image of God made he man.”); *Deuteronomy 27:25* (KJV) (“Cursed be he that taketh reward to slay an innocent person.”); *Proverbs 6:16–17* (KJV) (“These six things doth the LORD hate: yea, seven are an abomination to him . . . hands that shed innocent blood.”). Many Texas Children’s employees also have sincerely held religious beliefs that it would be better to tie millstones around their necks and be drowned in the sea than to bring harm to an innocent child. *See Matthew 18:6; Luke 17:2*.

Many Texas Children’s employees also have sincerely held religious beliefs that their bodies are temples 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* (KJV) (“Know ye not that your bodies are the members of Christ? shall I then take the members of Chris 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.”).

The Hebrew word for “abomination” in the *Proverbs 6:16–17* (KJV) text quoted above is תועבה (to`eba). The verbal form is “abhor,” “loath,” “detest,” and “exclude.” Twelve times the Book of Proverbs uses תועבה in reference to an “abomination to the LORD.” (יהוה or Yahweh). The word is also used in conjunction with the Ammonites and the Ashtoreth, the Sidonians, Chemosh, and Moab. Some of these nations sacrificed their children to Baal. Indeed, *Jeremiah 19:4–9*, refers to the shedding of innocent blood by sacrificing children as the reason for judgement against Judah. Abortion is the modern-day sacrifice of children made in the image of God. Many Texas Children’s employees do not want to be a part of such an “abomination.” They do not want to be in any way associated with abortion, directly or indirectly. For them, doing so is abhorrent, loathsome, detestable—abominable—to God.

Thus, while there may be leaders and other adherents of certain employees’ faith traditions 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 Employees 1, 2, 3, and 4 and other Texas Children’s employees who sincerely believe otherwise. Likewise irrelevant is whether any Texas Children’s employee currently seeking a religious exemption formerly understood or believed any religious doctrine differently as applied to vaccines. 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 Texas Children’s employees’ sincerely held religious beliefs compel them to abstain from accepting or injecting any of these products into their bodies, regardless of the perceived benefits or rationales.

In sum, it is unlawful for Texas Children’s to condition any employee’s request for religious accommodation on a third party’s beliefs or acknowledgement of the employee’s beliefs, or on the employee’s past health decisions or the theological reasons for those decisions.

E. The Rights of Texas Children’s Employees to Religious Accommodation and Abstention From Any Participation in Abortion are Guaranteed Under Texas Law.

Like Title VII, the Texas Commission on Human Rights Act (TCHRA), Tex. Lab. Code §§ 21.001–21.556, requires employers to accommodate employees’ sincerely held religious beliefs:

An employer commits an unlawful employment practice if because of . . . religion . . . the employer:

(1) fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or

(2) limits, segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee.

Tex. Lab. Code § 21.051. Thus, Title VII’s protections for employees with sincerely held religious objections to COVID-19 vaccines (*see supra* Pt. C) are equally protected under Texas law. *See Mission Consol. Indep. Sch. Dist. v. Garcia*, 372 S.W.3d 629, 633–34 (Tex. 2012) (“Section 21.051 is effectively identical to Title VII, its federal equivalent Because one of the purposes of the TCHRA is to provide for the execution of the policies of Title VII . . . we have consistently held that those analogous federal statutes and the cases interpreting them guide our reading of the TCHRA.” (cleaned up)).

Moreover, Texas law also protects the rights of all health care workers to abstain from participation in abortion:

A physician, nurse, staff member, or employee of a hospital or other health care facility who objects to **directly or indirectly . . . participating in an abortion procedure** may not be required to directly or indirectly . . . participate in the procedure.

Tex. Occ. Code § 103.001 (emphasis added). And:

A hospital or health care facility may not discriminate against a physician, nurse, staff member, or employee, or an applicant for one of those positions, who refuses to . . . participate in an abortion procedure.

Tex. Occ. Code § 103.002(a). Thus, in accordance with the strong public policy of the State of Texas against any coerced participation in abortion, directly or indirectly, as enacted by statute, Texas Children's must accommodate any employee with a sincere religious objection to receiving a COVID-19 vaccine because of the vaccine's connection to abortion procedures. Texas Children's denials of the religious exemption requests of [REDACTED] and others referencing abortion ("**based on the personal belief statement that you submitted**") violate both the law and public policy of the State of Texas.

LEGAL DEMAND

As shown above, Texas Children's denials of the religious exemption requests of [REDACTED] [REDACTED] [REDACTED], (and undoubtedly many others) is unlawful. Indeed, Texas Children's cannot compel any employee's compliance with Texas Children's mandatory COVID-19 vaccination policy against the employee's sincerely held religious beliefs. Moreover, it is unlawful for Texas Children's to deny any employee's request for religious accommodation either because other religious adherents have beliefs different from the employee's or because of the employee's past personal health decisions, whatever the employee's theological reasons for those decisions, or because of the TCH "religious exemption" reviewer's discounting of the sincerity of religious beliefs about abortion and the abortion-derived COVID shots.

Liberty Counsel prefers to avoid the need for further legal action, and trusts that the points and authorities presented in this letter demonstrate to Texas Children's that its ongoing denials of its employees' requests for religious accommodation are based on false and illegal rationales and therefore unlawfully pretextual, no matter how vague and guarded TCH has attempted to be in communicating its denials. Should Texas Children's continue its denials on such premises, however, Liberty Counsel will be forced to conclude that Texas Children's is disregarding its obligations to provide accommodations to employees with sincerely held religious objections to the COVID-19 vaccines in violation of both federal and state law. Liberty Counsel is more than willing to explore the true reasons for TCH's many religious exemption denials in discovery and beyond, should that prove necessary.

Liberty Counsel is giving Texas Children's the opportunity to grant the religious exemption request of [REDACTED] and others without litigation. To avoid litigation, Texas Children's must provide, prior to Friday, September 24, at 12:00 P.M., Texas Children's assurances that:

- 1) Texas Children's has granted the religious exemption request of [REDACTED], [REDACTED], and [REDACTED], and has reversed its intent to fire them as of 5:00 PM.**
- 2) Texas Children's will not deny (and will reverse any prior denial of) any religious accommodation request where the request is based on an employee's sincere religious objection to receiving the COVID-19 vaccines developed, tested, produced, or otherwise connected to aborted fetal cell lines, or from receiving any of the COVID-19 vaccines if such act conflicts with any other sincerely held religious belief;**

- 3) Texas Children's will not deny (and will reverse any prior denial of) any religious accommodation request based on the absence of approval or acknowledgement of the employee's religious beliefs by a third party;
- 4) Texas Children's will not deny (and will reverse any prior denial of) any religious accommodation request based on any stated or perceived different beliefs by any religious denomination or organization; and
- 5) Texas Children's will not deny (and will reverse any prior denial of) any religious accommodation request based on an employee's past vaccination or other health decisions or the employee's theological reasons for those decisions.

Texas Children's failure to respond positively or timely, or Texas Children's taking of any adverse or retaliatory action against [REDACTED], [REDACTED], and [REDACTED], or any other employee who has requested religious accommodation, will indicate to Liberty Counsel that Texas Children's will not comply with its legal obligations against discrimination without judicial intervention. In that event, we will proceed directly with litigation to vindicate the legal rights of [REDACTED] [REDACTED] and other Texas Children's employees, without further warning.

EVIDENCE PRESERVATION DEMAND

In connection with the foregoing Legal Demand, Liberty Counsel also demands that Texas Children's preserve all records, data, documents, devices, and things in its possession or the possession of its employees, including private wireless phones and devices and records and data found thereon, from January 1, 2020 to the present (and continuing), constituting, reflecting, or reasonably related to the following:

1. The conception, formation, membership, staff, volunteers, administration, policies, guidelines, communications, analyses, opinions, deliberations, decisions, meetings, and other official or unofficial actions of the Texas Children's HR Department, "Exemption Review" Department, or any other departments developing standards for review of religious exemptions.
2. All requests for exemption from receiving a COVID-19 vaccine submitted to the Texas Children's or any other person or persons employed by or under the direction and control of Texas Children's, from [REDACTED], [REDACTED], and [REDACTED], or any other Texas Children's employee, and all communications, analyses, opinions, deliberations, decisions, meetings, and other official or unofficial actions of the Texas Children's or such other person or persons concerning such exemption requests; and
3. Any training received by any Texas Children's member, consultant, employee, or volunteer, or any Texas Children's employee, consultant, volunteer, or board member regarding the conception, enactment, and administration of Texas Children's mandatory COVID 19 vaccination policy, including without limitation the review, consideration, and disposition of requests for religious exemption from the policy, and

further including without limitation any such training received at or from Texas Children's or any affiliate thereof.

The records, data, and documents subject to this demand include all paper and other physical files and all electronically stored information (ESI), including but not limited to e-mail, text, SMS, MMS, social media, and other electronic communications, whether maintained on a personal or business device or account, including on personal wireless devices, personal e-mail accounts, and personal social media accounts; and further including without limitation word processing documents, spreadsheets, databases, calendars, telephone logs, contact information, usage files, and access information from networks, databases, computer systems (including legacy systems, hardware, and software), servers, archives, backup or disaster recovery systems, tapes, discs, drives, cartridges, and other storage media, laptops, personal computers, tablets, digital assistants, handheld wireless devices, mobile telephones, paging devices, and audio systems (including voicemail).

Liberty Counsel expects Texas Children's to preserve records, data, documents, devices, and things from January 1, 2020 to the present (and continuing) in Texas Children's possession and in the possession of any third party under its control. If Texas Children's knows or reasonably determines that any older records, data, documents, devices, or things are potentially relevant, however, Texas Children's should preserve such materials from the relevant earlier period as well.

ESI is an important and irreplaceable source of evidence in connection with this matter. Liberty Counsel cautions Texas Children's that this preservation demand should be afforded the broadest possible interpretation with respect to ESI, and that responsive ESI can reside not only in areas that are reasonably accessible but also in areas that Texas Children's may deem not reasonably accessible. Liberty Counsel demands that Texas Children's preserve all responsive ESI, even if Texas Children's does not anticipate an obligation to produce such ESI in future litigation.

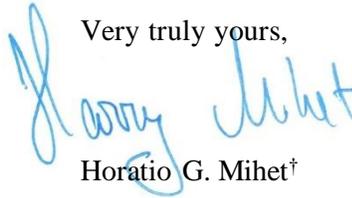
Preservation of ESI may require more than simply refraining from efforts to destroy or dispose of such evidence. Texas Children's may have to affirmatively intervene in automatic processes to prevent data loss due to routine operation and overwriting. For instance, sources of ESI can be altered and erased simply through continued use of a computer or other device. Booting a drive, examining its contents, or running any application can irretrievably alter the evidence it contains and may constitute unlawful spoliation of evidence. Texas Children's should take care to employ proper techniques and protocols, hiring an expert to assist if necessary.

Texas Children's should be aware that employees or others may seek to hide, destroy, or alter ESI, and Texas Children's must act to prevent or guard against such actions. Users may seek to delete or destroy information they regard as personal, confidential, or embarrassing and, in so doing, may also delete or destroy responsive ESI. Though Liberty Counsel expects Texas Children's will act swiftly to preserve data on office workstations and servers, Texas Children's should also determine whether any home or portable systems contain potentially responsive ESI. Texas Children's must preserve the contents of the systems, devices, and media used for those purposes as well.

I am available to discuss reasonable preservation steps; however, Texas Children's should not delay in taking proper precautions to preserve relevant records, data, documents, and things if they may be lost or corrupted as a consequence of delay. Should Texas Children's failure to preserve potentially relevant evidence result in the corruption, loss, or delay in production to which [REDACTED], or other employees may later be entitled, such failure would constitute spoliation of evidence, for which sanctions may be imposed.

Please govern yourselves accordingly.

Very truly yours,



Horatio G. Mihet[†]

CC

Via Email

Allena L. Cano, Esq.^{††}
Sophia Guerra, Esq. ^{††}

AllenaCano@gmail.com
Sophia.Guerra@me.com

Texas Children's Board of Directors,
c/o Michael C. Linn, Chair

[†] Licensed in Florida and Ohio
^{††} Licensed in Texas