



## Questions and Answers on the Covid-19 Vaccine

### Pacific Justice Institute

May 19, 2022

#### Table of Contents

Q: Can my employer order me to take a COVID vaccination: can they threaten to fire me if I do not comply? .....	2
Q: What if taking the vaccination violates a sincerely held religious belief of mine? .....	4
Q: What if I have a disability covered under the Americans with Disabilities Act (ADA) that prevents me from taking the vaccine? .....	6
Q: What if I have a medical condition that prevents me from taking the vaccine? .....	7
Q: What if I am allergic to the vaccine or its components? .....	8
Q: What if I am pregnant? .....	9
Q: What if I am breastfeeding? .....	9
Q: What if I do not want to take the vaccine because I am concerned about side effects of future health issues? .....	10
Q: I recently tested positive for COVID-19. Should I get the vaccine? .....	10
Q: I already had COVID-19 and recovered, so I have antibodies to fight off future exposures. Do I still have to get a vaccine? .....	10
Q: Is there a difference between my employer “strongly encouraging” me to get the Vaccine versus mandating the vaccine? .....	16
Q- What new mandates were created as a result of President Biden’s speech on September 9, 2021? ...	17
Q: Asking if I have been vaccinated is asking for medical information. Isn’t that a violation of HIPPA? .....	21
Q: How effective are these vaccines? Can vaccinated people with breakthrough cases of COVID-19 transmit the virus to others? What about the Omicron Variant? .....	22



Q: Vaccinations and boosters for Children ages 5-11, and even 6 months to 5 years .....	27
Q: Is there an issue with heart inflammation after taking the vaccines? .....	30
Q: Is there a risk of developing Guillain-Barré Syndrome from a vaccine.....	31
Q: Is there a legal basis to challenge a vaccine mandate? .....	31
Q: What are the basic roles and powers of the government regarding vaccines?.....	34
Q: Can a store or restaurant make me show proof of vaccination before doing business with me or letting me inside? .....	35
Q What if I have a medical condition and a letter from my doctor exempting me from the vaccine? Can I be excused from the passport? .....	36
Q: What if a COVID vaccine is required for admission to a college or university?.....	37
Q: Does my employer have to pay for mandatory COVID-19 testing?.....	38
Q: Are there any vaccines coming that are more like the traditional vaccines we have taken as children? .....	40
Q: Are attitudes toward COVID restrictions changing?.....	41
Q: How deadly is COVID 19 in March of 2022?.....	43
Q: Is there an increase in all-cause mortality in Americans under 65?.....	44
Q: Are state governments doing anything to restrict vaccine mandates?.....	44

**Question:** Can my employer order me to take a COVID vaccination: can they threaten to fire me if I do not comply?

**Answer:** Yes. However, there are provisions for religious and medical exemptions / accommodations, which will be discussed in detail later in this resource.

On August 23, 2021, the U.S. Food and Drug Administration approved the first COVID-19 vaccine. The vaccine has been known as the Pfizer-BioNTech COVID-19 Vaccine, and will now be



marketed as Comirnaty (koe-mir'-na-tee), for the prevention of COVID-19 disease in individuals 16 years of age and older. The vaccine also continues to be available under emergency use authorization (EUA), including for individuals 12 through 15 years of age and for the administration of a third dose in certain immunocompromised individuals.<sup>1</sup>

*The vaccines were previously administered under the Emergency Use Authorization (EUA), because the vaccines were not studied for a sufficient time to ensure there are no long-term side effects. As of May 28, 2021, in an update of its COVID-19 guidance, the Equal Employment Opportunity Commission said employers could require all workers physically entering a workplace to be vaccinated against the coronavirus but that federal law may require the employer to provide reasonable accommodations for employees who aren't vaccinated because of a disability or religious belief.*<sup>2</sup>

*A number of courts have upheld the EEOC update, and the Department of Justice has issued an opinion that employers and colleges / universities are permitted to compel vaccinations, regardless of the facts listed below:*

- 1. The EUA itself, 21 U.S. Code § 360bbb–3, requires: ... “Individuals to whom the product is administered are informed— of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product...”<sup>3</sup>*
- 2. Each person who is about to receive a Covid-19 vaccine is given a fact sheet, which states in part: WHAT IF I DECIDE NOT TO GET THE (insert drug company name) COVID-19 VACCINE? It is your choice to receive or not receive the (insert drug company name) COVID-19 Vaccine. Should you decide not to receive it, it will not change your standard medical care.<sup>4</sup>*
- 3. In the 2004 case of Doe v. Rumsfeld,<sup>5</sup> plaintiffs challenged the government's Anthrax Vaccination Immunization Program (AVIP), because anthrax vaccine adsorbed (AVA) had never been approved by the FDA as a safe and effective drug for protection against inhalation anthrax. Yet the government was forcing military personnel to take the vaccine. The United States District Court for the District of Columbia issued an injunction prohibiting the use of AVA on the basis that the vaccine is either a drug unapproved for its intended use or an investigational new drug, and thus requires informed consent.*

---

<sup>1</sup> FDA Approves First COVID-19 Vaccine, News Release, U.S. Food and Drug Administration.

<sup>2</sup> “What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws”, U.S. Equal Employment Opportunity Commission (EEOC), Section K Vaccinations.

<sup>3</sup> 21 U.S. Code § 360bbb–3 - Authorization for medical products for use in emergencies. Subsection (e)(1)(A)(ii)

<sup>4</sup> <https://www.cdc.gov/vaccines/covid-19/eua/index.html>

<sup>5</sup> Doe v. Rumsfeld, 341 F. Supp. 2d 1, 2004 U.S. Dist. LEXIS 21668



4. *In August 2020, Amanda Cohn, MD, the Executive Secretary of The Centers for Disease Control Advisory Committee on Immunization Practices (CDC-ACIP) stated: "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."*<sup>6</sup>

**NOTE: On August 23, 2021, the FDA granted a license to Pfizer's "Comirnaty" vaccine and extended the EUA for its Pfizer-BioNTech vaccine. In its letters to Pfizer and BioNTech, the FDA stated that Pfizer's vaccines are interchangeable yet legally distinct: "The licensed vaccine has the same formulation as the EUA-authorized vaccine and the products can be used interchangeably... The product are legally distinct with certain differences that do not impact safety or effectiveness." The approved Comirnaty vaccine is still unavailable in the United States. This argument has been made in a number of courts, but has not been impactful as of March 17, 2022.**

**Question:** What if taking the vaccination violates a sincerely held religious belief of mine?

**Answer:** Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.) 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."<sup>7</sup>

There is a process involved when asserting your rights under Title VII. The process begins when you communicate to your employer that you are unable to be vaccinated for COVID-19 because of a sincerely held religious belief, practice, or observance. Once an employer is on notice that an employee's sincerely held religious belief, practice, or observance prevents the employee

---

<sup>6</sup> <https://www.youtube.com/watch?v=p0zCEiGohJs&list=PLvrp9iOILTQb6D9e1YZWpbUvzfptNMKx2&inde>

<sup>7</sup> 42 U.S.C. § 2000e-2(a).



from getting a COVID-19 vaccine, the employer must provide a reasonable accommodation unless it would pose an undue hardship.

The employer should ordinarily assume that an employee's request for religious accommodation is based on a sincerely held religious belief, practice, or observance. However, if an employer is aware of facts that provide an objective basis for questioning either the religious nature or the sincerity of a particular belief, practice, or observance, the employer would be justified in requesting additional supporting information.

An employer should meet with the employee, do discuss and thoroughly consider all possible reasonable accommodations, including telework and reassignment. The EEOC and US Department of Labor, Occupational Safety and Health Administration, provide resources to assist employers in creating accommodations for employees.

NOTE: The Equal Employment Opportunity Commission (EEOC) provides guidance in providing religious accommodations for employees, particularly in meeting with employees and working through possible accommodations:

*Failure to confer with the employee is not an independent violation of Title VII. But as a practical matter, such failure can have adverse legal consequences. For example, in some cases where an employer has made no effort to act on an accommodation request, courts have found that the employer lacked the evidence needed to meet its burden of proof to establish that the plaintiff's proposed accommodation would actually have posed an undue hardship. (EEOC Compliance Manual on Religious Discrimination, Section 12 - IV REASONABLE ACCOMMODATION, A 2.*

**UPDATE:** As recently as October 25, 2021, EEOC Chair Charlotte A. Burrows reiterated to employers that requesting religious accommodation is a 'fundamental right' of employees." The EEOC Compliance Manual on Religious Discrimination describes an interactive process that should take place between the employee who has communicated their sincerely held religious beliefs and the employer. (Section 12 - IV REASONABLE ACCOMMODATION, A 2).<sup>8</sup>

However, employers are not required to make accommodations if such accommodations will create an "undue hardship" for the employer, having more than minimal cost or burden on the employer.<sup>9</sup> However, the courts have stated that to have an undue hardship, "an employer must either provide factual evidence that co-workers of an accommodated employee will be significantly imposed upon, or that a material disruption of the work routine will occur. Mere

---

<sup>8</sup> "EEOC ISSUES UPDATED COVID-19 TECHNICAL ASSISTANCE, Provides Additional Information on Equal Employment Opportunity Laws and Religious Objections to Workplace Vaccine Requirements." EEOC News, Oct. 25, 2021

<sup>9</sup> EEOC, sections K 12 and K 6.



hypothetical scenarios of what could happen... if an employee is granted an accommodation are wholly insufficient.”<sup>10</sup>

Ultimately, if an employee cannot be accommodated, employers should determine if any other rights apply under the EEO laws or other federal, state, and local authorities before taking adverse employment action against an unvaccinated employee.<sup>11</sup>

If the request is denied, then employees may be able to look to two different governmental agencies to help them preserve their rights, their state-based agency that enforces state laws preventing workplace discrimination and the federal agency that enforces federal laws preventing workplace discrimination. For a California employee, for example, these two agencies would be the Department of Fair Employment and Housing (DFEH) for state law claims or the Equal Employment Opportunity Commission (EEOC) for federal law claims. Whenever employees in California seek to bring a claim based upon workplace discrimination, they are legally barred from filing a civil lawsuit until after they first file a claim with either the DFEH or EEOC, as applicable. For purposes of vaccine-related discrimination claims, the following sources of law are addressed by the DFEH and EEOC, respectively:

DFEH: California-based agency charged with enforcing various civil rights laws, including the Fair Employment and Housing Act (FEHA) and the California Family Rights Act (CFRA); and

EEOC: Federal-based agency charged with enforcing various federal laws against employment discrimination, including Title VII of the Civil Rights Act of 1964 (“Title VII”), the Americans with Disabilities Act (ADA), the Equal Pay Act (EPA), the Age Discrimination in Employment Act (ADEA) and the Genetic Information Nondiscrimination Act (GINA).

PJI provides a resource to assist employees in requesting a religious exemption / accommodation from a mandated vaccine [here](#).

If your request for religious exemption / accommodation has been denied, and you do not agree with their decision, you can file a complaint with the EEOC or equivalent state agency.

**The EEOC and equivalent state agency processes are designed to be used by individuals and do not require a lawyer to be involved.** PJI has a resource to help you [here](#).

---

<sup>10</sup> *Heller v. EBB Auto Co.*, 8 F.3d 1433, 1440 (9th Cir. 1993); *Tooley v. Martin-Marietta Corp.*, 648 F.2d 1239, 1241 (9th Cir. 1981); *Burns v. Southern Pacific Transp. Co.*, 589 F.2d 403, 406-07 (9th Cir. 1978).

<sup>11</sup> EEOC, K 12.



After you receive a right to sue letter from either the EEOC or the State agency, you may contact the PJI Legal Dept. to review your records and determine if you have a viable case in which we can represent you or refer you to an employment law attorney.

**Question:** What if I have a disability covered under the Americans with Disabilities Act (ADA) that prevents me from taking the vaccine?

**Answer:** Under the ADA, an employer may require all employees to meet a qualification standard that is job-related and consistent with business necessity, such as a safety-related standard requiring COVID-19 vaccination. However, if a particular employee cannot meet such a safety-related qualification standard because of a disability, the employer may not require compliance for that employee unless it can demonstrate that the individual would pose a “direct threat” to the health or safety of the employee or others in the workplace.

In the case of Covid, that would include evaluation of things such as the current level of community spread, whether the employee works alone or with others, works inside or outside; the available ventilation; the frequency and duration of direct interaction the employee typically will have with other employees and/or non-employees; the number of partially or fully vaccinated individuals already in the workplace; whether other employees are wearing masks or undergoing routine screening testing; and the space available for social distancing.

If it is determined that an employee with a disability who is not vaccinated would pose a direct threat to self or others, the employer must consider a reasonable accommodation to reduce or eliminate that threat, such as requiring the employee to wear a mask, work a staggered shift, making changes in the work environment (such as improving ventilation systems or limiting contact with other employees and non-employees), permitting telework if feasible, or reassigning the employee to a vacant position in a different workspace.

Similar to the requirements under Title VII for sincerely held religious beliefs, employers are not required to make accommodations that impose “undue hardship” on the employer. However, the standard for undue hardship is different under the ADA, as it requires a “significant difficulty or expense.”

Also, under the ADA, it is unlawful for an employer to disclose that an employee is receiving a reasonable accommodation or to retaliate against an employee for requesting an accommodation.<sup>12</sup>

---

<sup>12</sup> EEOC, K 5, K 6.



**Question:** What if I have a medical condition that prevents me from taking the vaccine?

**Answer:** The CDC makes very few exceptions medical conditions, as follows:

1. People who have weakened immune systems- People with HIV and those with weakened immune systems due to other illnesses or medication might be at increased risk for severe COVID-19. They may receive a COVID-19 vaccine. However, they should be aware of the limited safety data:
  - A. Information about the safety of COVID-19 vaccines for people who have weakened immune systems in this group is not yet available
  - B. People living with HIV were included in clinical trials, though safety data specific to this group are not yet available at this time
  - C. People with weakened immune systems should also be aware of the potential for reduced immune responses to the vaccine, as well as the need to continue following current guidance to protect themselves against COVID-19.
2. People who have autoimmune conditions- People with autoimmune conditions may receive a COVID-19 vaccine. However, they should be aware that no data are currently available on the safety of COVID-19 vaccines for people with autoimmune conditions.
3. People who have previously had Guillain-Barre syndrome (GBS)- With few exceptions, the independent Advisory Committee on Immunization Practices (ACIP) general best practice guidelines for immunization do not include a history of GBS as a precaution to vaccination with other vaccines.
4. People who have previously had Bell's palsy- Cases of Bell's palsy were reported following vaccination in participants in the COVID-19 vaccine clinical trials. However, the Food and Drug Administration (FDA) does not consider these to be more than the rate expected in the general population. They have not concluded these cases were caused by vaccination.<sup>13</sup>

The general rule is that if you have a medical condition that your doctor will certify should exclude you from vaccination, present that documentation to your employer if they are mandating vaccination. If you feel the employer is responding in an unreasonable manner, contact the Pacific Justice Institute to discuss your legal rights.

---

<sup>13</sup> COVID-19 Vaccines for People with Underlying Medical Conditions, Centers for Disease Control and Prevention (CDC), updated September 1, 2021.





**Question:** What if I am allergic to the vaccine or its components?

**Answer:** The Centers for Disease Control and Prevention (CDC) begins with the following definitions:

- An allergic reaction is considered severe when a person needs to be treated with epinephrine or EpiPen or if the person must go to the hospital. Experts refer to severe allergic reactions as anaphylaxis.
- An immediate allergic reaction happens within 4 hours after getting vaccinated and could include symptoms such as hives, swelling, and wheezing (respiratory distress).

**If You Are Allergic to an Ingredient in a COVID-19 Vaccine-**

If you have had a severe allergic reaction or an immediate allergic reaction—even if it was not severe—to any ingredient in an mRNA COVID-19 vaccine, you should not get either of the currently available mRNA COVID-19 vaccines (Pfizer-BioNTech and Moderna).

If you have had a severe allergic reaction or an immediate allergic reaction to any ingredient in Johnson & Johnson's Janssen (J&J/Janssen) COVID-19 vaccine, you should not get the J&J/Janssen vaccine.

**If You Are Allergic to Other Types of Vaccines**

If you have had an immediate allergic reaction—even if it was not severe—to a vaccine or injectable therapy for another disease, ask your doctor if you should get a COVID-19 vaccine.

**If You Have Allergies Not Related to Vaccines**

The CDC recommends that people get vaccinated even if they have a history of severe allergic reactions not related to vaccines or injectable medications—such as food, pet, venom, environmental, or latex allergies. People with a history of allergies to oral medications or a family history of severe allergic reactions may also get vaccinated.<sup>14</sup>

If you have any of the allergies described by the CDC, provide that documentation to your employer if they are mandating vaccination. If you feel the employer is responding in an unreasonable manner, contact the Pacific Justice Institute to discuss your legal rights.

---

<sup>14</sup> COVID-19 Vaccines for People with Allergies, Centers for Disease Control and Prevention (CDC), updated March 25, 2021.



**Question:** What if I am pregnant?

**Answer:** The CDC states that you MAY get the vaccine if you are pregnant, however, “key considerations you can discuss with your healthcare provider include:

- How likely you are to being exposed to the virus that causes COVID-19
- Risks of COVID-19 to you and the potential risks to your fetus or infant
- What is known about COVID-19 vaccines:
- How well they work to develop protection in the body
- Known side effects of vaccination
- Limited, but growing, information on the safety of COVID-19 vaccination during pregnancy
- How vaccination might pass antibodies to the fetus. Recent reports have shown that people who have received COVID-19 mRNA vaccines during pregnancy (mostly during their third trimester) have passed antibodies to their fetuses, which could help protect them after birth.”<sup>15</sup>

**Question:** What if I am breastfeeding?

**Answer:** The CDC states “Clinical trials for the COVID-19 vaccines currently authorized for use under an Emergency Use Authorization in the United States did not include people who are breastfeeding. Because the vaccines have not been studied on lactating people, there are no data available on the:

- Safety of COVID-19 vaccines in lactating people
- Effects of vaccination on the breastfed baby
- Effects on milk production or excretion”<sup>16</sup>

**Question:** What if I do not want to take the vaccine because I am concerned about side effects or future health issues?

---

<sup>15</sup> COVID-19 Vaccines While Pregnant or Breastfeeding, Centers for Disease Control and Prevention (CDC), updated August 11, 2021. NOTE: The CDC, a top federal government medical agency, uses politically correct language that does not acknowledge the biological difference between men and women.

<sup>16</sup> COVID-19 Vaccines While Pregnant or Breastfeeding, Centers for Disease Control and Prevention (CDC), updated August 11, 2021. NOTE: The CDC, a top federal government medical agency, uses politically correct language that does not acknowledge the biological difference between men and women.



**Answer:** At this time, there is no allowance for persons who are declining the vaccine for health concerns. The Pacific Justice Institute will monitor current and future legal actions and revise this information as necessary.

**Question:** I recently tested positive for Covid 19. Should I get the vaccine?

**Answer:** People with COVID-19 who have symptoms should wait to be vaccinated until they have recovered from their illness. You should isolate yourself for at least 14 days since symptoms first appeared and at least 24 hours with no fever without fever-reducing medication and other symptoms of COVID-19 are improving.<sup>17</sup>

**Question:** I already had Covid and recovered, so I have antibodies to fight off future exposures. Do I still have to get a vaccine?

**Answer:** There is a growing mountain of evidence that people who have natural immunity, from having had COVID-19 and recovered, do not need a vaccination. Overwhelming evidence shows that the natural immunity is superior to the immunity produced by vaccines, and while still statistically small, the possibility of adverse side effects from the vaccine are higher for those with natural immunity.

There has been evidence dating back to January 2021 that natural immunity is superior to immunity from vaccination. However, until just recently, the CDC and other government officials have refused to acknowledge this evidence and still required vaccines. The CDC has not updated this subject on their website since March 2021. We at PJI believe that the government will shortly be forced to acknowledge the effectiveness of natural immunity. We make that statement because of overwhelming evidence and because of the recent recognition of natural immunity in a statement from Doctor Anthony Fauci. Here are the details:

1. The Spectrum Health hospital system in Michigan announced on September 9, 2021, that it now grants an exemption to those who have a positive PCR or antigen test for COVID-19 plus a positive antibody test from within the past three months. The exemption, the first for a major health system in Michigan, was developed "as new research has emerged" on natural immunity.<sup>18</sup>

---

<sup>17</sup> Interim Clinical Considerations for Use of COVID-19 Vaccines Currently Approved or Authorized in the United States, Centers for Disease Control and Prevention (CDC), updated August 31, 2021.

<sup>18</sup> "Spectrum Health workers can use natural immunity as vaccine mandate exemption", by Beth LeBlanc, The Detroit News, September 12, 2021.



2. St. Luke's University Health Network and Lehigh Valley Health Network, two large health networks in Southeastern Pennsylvania, are allowing employees who already had COVID-19 to defer getting the COVID-19 vaccine due to the natural immunity they have against the virus. Sam Kennedy, spokesperson for St. Luke's, said the move to implement this exemption was made based on guidance from network infectious disease experts.<sup>19</sup>
3. A professor at George Mason University filed a lawsuit over the University's mandatory vaccination policy for employees and others. Professor Todd Zywicki based the lawsuit on the fact that he had natural antibodies from a previous COVID-19 infection. On August 17, 2021, the University relented and is allowing the professor to remain on campus unvaccinated for "medical reasons unique to Prof. Zywicki".<sup>20</sup>
4. Aaron Kheriaty, a professor of psychiatry and human behavior at the University of California, Irvine, and director of UCI's Medical Ethics Program and member of the UC Office of the President Critical Care Bioethics Working Group, has filed a recent lawsuit over the UC coronavirus vaccine mandate, which he argues he does not need because of his natural immunity against the virus. The lawsuit is still pending.<sup>21</sup>
5. Europe is currently recognizing natural immunity in a number of circumstances, including its European Union travel passport system.<sup>22</sup>
6. On September 14, 2021, the CDC tweeted: "If you've had #COVID19 in the past 3 months and you've been exposed to someone with COVID-19, you don't need to get tested if you don't have new symptoms." This is announcing new policy via @cdc.gov
7. On September 10, 2021, Doctor Anthony Fauci was on CNN being interviewed by Sanjay Gupta. CNN's Sanjay Gupta asked if people who have already recovered from COVID-19 should still be required to get the vaccine. "I don't have a really firm answer for you on

---

<sup>19</sup> "St. Luke's and LVHN employees who caught COVID-19 to defer getting the vaccine, other employers may follow", by Leif Greiss, The Morning Call, September 14, 2021.

<sup>20</sup> "George Mason grants medical exemption to faculty member who sued over vaccine policy", by Rick Seltzer Senior Editor, Higher Ed Dive, August 18, 2021.

<sup>21</sup> "California professor sues over vaccine mandate, says he has natural immunity", by Emma Colton, Fox News, September 9, 2021.

<sup>22</sup> "EU Presidents Officially Sign Regulation on EU Vaccine Passports for Travel", SchengenvisaInfo News, June 14, 2021



that," he said Thursday on CNN. "I think that is something that we need to sit down and discuss seriously."<sup>23</sup> As previously stated, this is the first time a government official has acknowledged the possibility that people with natural immunity may not need to be vaccinated. Up until this point, all of their responses stated that persons with previous COVID-19 infections need to be vaccinated.

There is mounting evidence that natural immunity is superior to vaccination:

- a. Washington University School of Medicine in St. Louis and published May 24, 2021, in the journal Nature, found that even a mild case of coronavirus could leave people with lifelong protection against the virus.<sup>24</sup>
- b. In a study in the United Kingdom published April 9, 2021, "the authors suggest that infection and the development of an antibody response provides protection similar to or even better than currently used SARS-CoV-2 vaccines."<sup>25</sup>
- c. A study conducted by the Cleveland Clinic was released June 8, 2021, finding that "individuals with previous SARS-CoV-2 infection do not get additional benefits from vaccination". They found that none of the 1,359 previously infected who remained unvaccinated contracted SARS-CoV-2 over the course of the research despite a high background rate of COVID-19 in the hospital.<sup>26</sup>
- d. A similarly conducted study led by a researcher at University of California Los Angeles found that there was no difference in the infection incidence between vaccinated individuals and individuals with previous infection.<sup>27</sup>
- e. A study from researchers at the La Jolla Institute for Immunology found that the immune systems of those who recovered from COVID-19 had durable memories of the virus up to eight months after infection.<sup>28</sup>

---

<sup>23</sup> "Fauci: Natural Immunity vs. Vaccine For COVID-19 Needs To Be Discussed Seriously", by Tim Hains, Real Clear Politics, September 10, 2021.

<sup>24</sup> Immunity to the Coronavirus May Persist for Years, Scientists Find, The New York Times, May 26, 2021.

<sup>25</sup> "Correlates of protection from SARS-CoV-2 infection", by Florian Krammer, The Lancet, April 9, 2021

<sup>26</sup> <https://doi.org/10.1101/2021.06.01.21258176>.

<sup>27</sup> <https://www.medrxiv.org/content/10.1101/2021.07.03.21259976v2.full-text>.

<sup>28</sup> <https://www.nih.gov/news-events/nih-research-matters/lasting-immunity-found-afterrecovery-Covid-19>.



- f. A study from researchers at Emory University and Fred Hutchinson Cancer Research Center which found that recovered COVID-19 patients, mount broad, durable immunity after infection, and that “[t]he durable antibody responses in the COVID-19 recovery period are further substantiated by the ongoing rise in both the spike and RBD memory B cell responses after over 3–5 months before entering a plateau phase over 6–8 months. Persistence of RBD memory B cells has been noted.”<sup>29</sup>
- g. Aarhus University Hospital in Denmark studied the immune response following SARS-CoV-2 infections in 203 recovered patients. The patients’ disease severity ranged from mild to serious cases that required hospitalization. The authors found that the vast majority of recovered individuals had detectable, functional SARS-CoV2 spike-specific adaptive immune responses, despite diverse disease severities, making vaccination post-COVID-19 for any of them redundant.<sup>30</sup>
- h. The most recent study of T-cell immunity six months after infection demonstrated that every single person tested showed “robust T cell responses to SARS-CoV-2 virus peptides [six months after primary infection] in all participants” which included those with “asymptomatic or mild/moderate COVID-19 infection.”<sup>31</sup>
- i. A new Israeli study of over 6 million participants found that natural immunity from SARS-CoV-2 infection was better than vaccination immunity in reducing risk of COVID-19 reinfection, hospitalization, and severe illness. Vaccination was highly effective, with overall estimated efficacy for documented infection of 92.8%, hospitalization 94.2% and severe illness 94.4%. Similarly, the overall estimated level of protection from prior SARS-CoV-2 infection for documented infection was 94.8%, hospitalization 94.1%, and severe illness 96.4%.<sup>22</sup> As the study explains, “both the BNT162b2 vaccine and prior SARS-CoV-2 infection are effective against both subsequent SARS-CoV-2 infection and other COVID-19–related outcomes.”<sup>32</sup>
- j. Another study from Israel found that the vaccinated had 6.72 times the rate of infection as compared to those that had had COVID-19: With a total of 835,792 Israelis known to have recovered from the virus, the 72 instances of reinfection amount to 0.0086% of

---

<sup>29</sup> <https://doi.org/10.1016/j.xcrm.2021.100354>.

<sup>30</sup> [https://www.thelancet.com/journals/ebiom/article/PIIS2352-3964\(21\)00203-6/fulltext](https://www.thelancet.com/journals/ebiom/article/PIIS2352-3964(21)00203-6/fulltext).

<sup>31</sup> <https://www.uk-cic.org/news/cellular-immunity-sars-cov-2-found-six-months-nonhospitalised-individuals>.

<sup>32</sup> <https://www.medrxiv.org/content/10.1101/2021.04.20.21255670v1>.



people who were already infected with COVID. By contrast, Israelis who were vaccinated were 6.72 times more likely to get infected after the shot than after natural infection.<sup>33</sup>

- k. An outbreak of SARS-CoV-2 caused by the Gamma variant infected 24/44 (55%) employees of a gold mine in French Guiana. The attack rate was 15/25 (60.0%) in fully vaccinated miners, 6/15 (40.0%) in those partially vaccinated or with a history of COVID-19 (none of the partially vaccinated with a history of COVID-19 were positive), and 3/4 (75%) in those not vaccinated. The attack rate was 0/6 among persons with a previous history of COVID-19 versus 63.2% among those with no previous history.<sup>34</sup>
- l. Irish researchers recently published a review of eleven cohort studies with over 600,000 total recovered COVID patients, not all of whom were well defined and may have had suspected COVID-19 with positive serologies later on who were followed up with over ten months. They found the reinfection rate to be 0.27% “with no study reporting an increase in the risk of reinfection over time.” Based on this data, the researchers were able to assert that “naturally acquired SARS-CoV-2 immunity does not wane for at least 10 months post-infection.” The study also did not identify any case of reinfection of SARS-CoV-2 that resulted in further transmission of the virus.<sup>35</sup>
- m. A study by researchers at Rockefeller University, which hasn’t been peer-reviewed, found that natural infection can create B cells, a type of white blood cell, that produce more potent antibodies for fighting COVID-19 and its variants than the B cells created after vaccination. The study, published August 30, 2021, found that severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) infection produces B-cell responses that continue to evolve for at least one year. During that time, memory B cells express increasingly broad and potent antibodies that are resistant to mutations found in variants of concern.<sup>36</sup>

NOTE: The research cited in d-l above appears in a declaration from Joseph Ladapo, MD, PhD, et al., filed August 23, 2021, in the case of *AARON KHERIATY M.D., v. THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a Corporation, and MICHAEL V. DRAKE, in his official capacity as*

---

<sup>33</sup> <https://www.theblaze.com/op-ed/horowitz-israeli-government-data-shows-natural-immunity-from-infection-much-stronger-than-vaccine-induced-immunity#toggle-gdpr>.

<sup>34</sup> [https://wwwnc.cdc.gov/eid/article/27/10/21-1427\\_article](https://wwwnc.cdc.gov/eid/article/27/10/21-1427_article).

<sup>35</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8209951/pdf/RMV-9999-e2260.pdf>.

<sup>36</sup> <https://www.biorxiv.org/content/10.1101/2021.07.29.454333v2.full.pdf>





*President of the UNIVERSITY OF CALIFORNIA*, case # 8:21-cv-01367 JVS (KESx), United States District Court, Central District of California, Southern Division.

**UPDATE:** As of November 30, 2021, there are now 150 scientific studies that affirm natural immunity to COVID-19. The complete list with summaries with links to each study can be accessed at <https://brownstone.org/articles/79-research-studies-affirm-naturally-acquired-immunity-to-covid-19-documented-linked-and-quoted/>

**UPDATE:** After largely ignoring the 135 studies affirming natural immunity cited above, the CDC has finally found a study that they like. The headline reads “CDC finds immunity from vaccines is more consistent than from infection, but both last at least six months”.<sup>37</sup> Harvard Medical School Professor Martin Kulldorff did an analysis of this new CDC cited study against a previous Israeli study, stating “An Israeli study by Gazit et al. found that the vaccinated have a 27 times higher risk of symptomatic infection than the Covid recovered. At the same time, the vaccinated were nine times more likely to be hospitalized for Covid. In contrast, a CDC study by Bozio et al. claims that the Covid recovered are five times more likely to be hospitalized for Covid than the vaccinated. Both studies cannot be right.”

After conducting an analysis of both studies, Kulldorff found the Israeli study to be more reliable, concluding: “Based on the solid evidence from the Israeli study, the Covid recovered have stronger and longer-lasting immunity against Covid disease than the vaccinated. Hence, there is no reason to prevent them from activities that are permitted to the vaccinated. In fact, it is discriminatory.”<sup>38</sup>

**UPDATE:** An Attorney from New York filed a Freedom of Information Request Act (FOIA) request on September 2, 2021. Dated on November 5, 2021, in response to the attorney’s FOIA request, the Centers for Disease Control and Prevention (CDC) admitted that it has no record of an unvaccinated person spreading COVID after recovering from COVID and becoming re-infected. PJI has obtained a copy of the letter.<sup>39</sup>

**NOTE:** The CDC has finally come out with an estimate as to how many Americans have natural immunity from a previous COVID-19 infection- 146.6 million as of October 2, 2021.<sup>40</sup>

---

<sup>37</sup> <https://www.washingtonpost.com/health/2021/11/01/what-works-better-vaccines-or-natural-immunity/>

<sup>38</sup> <https://brownstone.org/articles/a-review-and-autopsy-of-two-covid-immunity-studies/>

<sup>39</sup> <https://www.swfinstitute.org/news/89518/foia-cdc-admits-no-record-of-unvaccinated-person-spreading-covid-after-recovering-from-covid>

<sup>40</sup> <https://beckernews.com/22-new-cdc-natural-immunity-42976/>





**UPDATE:** On January 7, 2022, the NCAA announced that a person who has had a documented COVID-19 infection in the past 90 days is considered the equivalent of "fully vaccinated."<sup>41</sup>

**UPDATE:** On January 19, 2022, the CDC acknowledged that natural immunity is more effective than vaccination for the delta variant (which is no longer the dominant strain). They still maintain that natural immunity AND vaccination is the best protection.<sup>42</sup>

**UPDATE:** On the Ingraham Angle on Fox News on April 1, 2022, there was a discussion about the findings from the first court ordered release of documents by Pfizer. The documents show that even in their trials, Pfizer's researchers saw that natural immunity was 100% effective protection. No cases of severe COVID were found in the natural immunity group. These documents were sealed, and the CDC / Dr Fauci continued to maintain that the issue of natural immunity was not determined until January 19, 2022, in spite of 150 documented studies affirming natural immunity.<sup>43</sup>

**Question:** Is there a difference between my employer "strongly encouraging" me to get the vaccine versus mandating the vaccine?

**Answer:** We believe there is. As of April 21, 2021, US Department of Labor (DOL), Occupational Safety and Health Administration (OSHA) provided guidance as follows:

"If an employer requires its employees to be vaccinated, adverse reactions to the vaccines are considered "work-related" by OSHA. Employers who require COVID-19 vaccines must notify OSHA within 24 hours of an employee's inpatient hospitalization (or within eight hours of an employee's death) resulting from an adverse reaction."

Sometime between April 21 and May 24, 2021, OSHA changed its reporting guidance to:

"DOL and OSHA, as well as other federal agencies, are working diligently to encourage COVID-19 vaccinations. OSHA does not wish to have any appearance of discouraging workers from receiving COVID-19 vaccination, and also does not wish to disincentivize employers' vaccination efforts. As a result, OSHA will not enforce 29 CFR 1904's recording requirements to require any employers to record worker side effects from

---

<sup>41</sup> <https://www.ncaa.com/news/ncaa/article/2022-01-06/ncaa-releases-updated-covid-19-guidance-winter-sports#:~:text=A%20person%20who%20has%20had,symptoms%20or%20symptoms%20are%20resolving.>

<sup>42</sup> <https://www.reuters.com/business/healthcare-pharmaceuticals/prior-covid-infection-more-protective-than-vaccination-during-delta-surge-us-2022-01-19/>

<sup>43</sup> Coffee and Covid newsletter, Jeff Childers, April 1, 2022.



COVID-19 vaccination through May 2022. We will reevaluate the agency's position at that time to determine the best course of action moving forward."

Apparently OSHA believed that adverse reactions to mandatory COVID vaccinations were eligible for Workers Compensation.

In looking at liability, the vaccine manufacturers and distributors have been given immunity. In addition, there is immunity from liability under the 2005 PREP act (Public Readiness and Emergency Preparedness Act) for "program planners" who facilitate or supervise an onsite vaccination program, but that applies to liability for facilitating the vaccination. But there is no immunity for an employer who mandates an employee take the vaccine.

There are some older court cases on this issue. In 1949, in the case of *Roberts v. U.S.O. Camp Shows Inc.*, an employee was directed by his employer to receive various inoculations, and as a result, contracted encephalitis. The California Second District Court of Appeal held that "incapacity caused by illness from vaccination or inoculation may properly be found to have arisen out of the employment where such treatment is submitted to pursuant to the direction or for the benefit of the employer."<sup>44</sup>

In 1983, in the case of *Maher v. Workers' Comp. Appeals Bd.*, a nurse applied to work at a hospital. A mandatory test for tuberculosis resulted in treatment that injured her. The California Supreme Court found that "the rule is well settled that where an employee submits to an inoculation or a vaccination at the direction of the employer and for the employer's benefit, any injury resulting from an adverse reaction is compensable under the Workers' Compensation Act."<sup>45</sup>

Therefore, if your employer is pressuring you to get the vaccine, we recommend that you ask them if getting the vaccine is mandatory and get that in writing.

**Question-** What new mandates were created as a result of President Biden's speech on September 9, 2021?

**Answer-** On September 9, 2021, President Biden addressed the nation regarding his plans to address the increase in COVID-19 cases. His plan for mandatory COVID-19 vaccination directly impacts a staggering 100 million American Workers, almost two thirds of the nation's workforce. The focus is on the following groups:

---

<sup>44</sup> *Roberts v. U. S. O. Camp Shows, Inc.*, 91 Cal. App. 2d 884, 205 P.2d 1116, 1949 Cal. App. LEXIS 1319

<sup>45</sup> *Maher v. Workers' Comp. Appeals Bd.*, 33 Cal. 3d 729, 661 P.2d 1058, 190 Cal. Rptr. 904, 1983 Cal. LEXIS 176, 48 Cal. Comp. Cases 326



- a. All Employers with 100+ Employees: Mandatory Vaccination or Weekly Testing, about 80 million employees.
- b. Federal Executive Branch Workers and Government Contractors: Mandatory Vaccination, about 2.5 million employees.
- c. Health Care Employees at Medicare and Medicaid Participating Facilities, about 17 million employees.

**Employers with 100+ Employees-** At the conclusion of the speech, the official White House website included this summary:

*Requiring All Employers with 100+ Employees to Ensure their Workers are Vaccinated or Tested Weekly*

*The Department of Labor's Occupational Safety and Health Administration (OSHA) is developing a rule that will require all employers with 100 or more employees to ensure their workforce is fully vaccinated or require any workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work. OSHA will issue an Emergency Temporary Standard (ETS) to implement this requirement. This requirement will impact over 80 million workers in private sector businesses with 100+ employees.*

**UPDATE: On January 13, 2022, the United States Supreme Court placed a stay on the OSHA mandate requiring vaccination / testing by private employers with 100 or more employees. While the case can technically still move forward, for all practical purposes this mandate will not be implemented. The court did leave open the possibility for OSHA to take more targeted action on a specific industry or industries, and it remains to be seen if the Biden administration will attempt to do so.**

**UPDATE: OSHA announces its 490 page Emergency Temporary Standard (ETS) On November 4, 2021 and publishes it on November 5, 2021.**

The ETS as written is not a vaccine mandate because no employees actually have to get vaccinated. Each employee has the option to go to weekly testing. The media has focused on the fact that the date for mandatory vaccination or testing has been pushed back to January 4,



2022. However, the ETS actually takes effect on December 5, 2021, and employers have a number of responsibilities that come into effect at that time.

In addition, the ETS clarified a number of other issues that have been pending since the Biden speech on September 9, 2021, such as:

1. The ETS applies to all employers who have 100 or more U.S. employees at any time the standard is in effect, regardless of the number or location of worksites an employer may have. Therefore, if you have 95 employees when the ETS goes into effect on December 5, 2021, but the company hires five more employees and hits the 100 mark, the requirements go into effect for the company.
2. Once the company is covered by the ETS, it is covered for as long as the ETS is in effect regardless as to whether or not the company still has 100 employees. So if the company is covered on December 5, 2021, but then lays off a number of employees bringing it well below 100 employees, the company is still covered and must comply. Therefore, December 5, 2021 is an important date for employers.
3. Part-time employees count toward the 100-employee threshold, but independent contractors do not. Employees of a staffing agency would be counted by that agency, and not the employer to whom they are sent to work. On multi-employer worksites, such as in construction, each employer would count its own employees.
4. For employers who have both remote and in-office employees, all such employees are counted toward the 100-employee threshold. However, the ETS does not apply to employees who do not report to a workplace where other individuals such as coworkers or customers are present; while working from home; or who work exclusively outdoors.
5. Failure to implement and/or enforce the requirements of the ETS could result in potential citation and/or fines of up to \$13,653 for each serious violation. Willful violations could result in a fine as high as \$136,532.<sup>46</sup>
6. The ETS also does not apply to Health Care Employees at Medicare and Medicaid Participating Facilities, or Federal Executive Branch Workers and Government Contractors.

---

<sup>46</sup> <https://www.boselaw.com/2021/11/osha-issues-emergency-temporary-standard-mandating-covid-19-vaccination-and-testing/>



**Federal Executive Branch Workers and Government Contractors:** The government has given these employees and contractors 75 days to come into compliance. Federal employees are required to come into compliance as of November 22, 2021. Federal contractors have until January 4, 2022.

**UPDATE:** Biden issued Executive Order 14042, which requires federal employees and contractors to be vaccinated against the coronavirus. Federal employees will need to be fully vaccinated by November 22, 2021, and contractors by January 4, 2022. There is no weekly testing option for these workers. In FAQs, the Safer Federal Workforce Task Force reminded federal agencies that they still must comply with applicable federal laws—including privacy and collective bargaining obligations—when requesting vaccination information. Prior to the vaccine mandate's effective date, onsite contractors who are not fully vaccinated must show proof of a negative COVID-19 test taken no more than three days before entering a federal building.<sup>47</sup>

**UPDATE: As of January 19, 2022, the vaccine mandate for federal contractors and subcontractors remains on hold pending further court proceedings.** On November 30, 2021, the UNITED STATES DISTRICT COURT for the EASTERN DISTRICT OF KENTUCKY, CENTRAL DIVISION, FRANKFORT, issued a preliminary injunction, preventing the federal government from enforcing the vaccine mandate for federal contractors and subcontractors in all covered contracts in Kentucky, Ohio, and Tennessee. On January 5, 2022, the Sixth U.S. Circuit Court of Appeals, which was the first federal appellate court to consider whether the contractor mandate is legal, expressed a strong view that it is not. In addition, in early December, a separate federal district court ruling by a judge in Georgia, has temporarily blocked the contractor vaccine mandate nationwide. That opinion also found the president overstepped his bounds under the Procurement Act. The government has appealed that ruling too, and the case is now before the 11th Circuit Court of Appeals.

**UPDATE: As of January 19, 2022, Federal Employees continue to be under a vaccine mandate. No action has been taken on religious exemptions / accommodations filed by federal employees.**

**UPDATE:** On January 21, 2022, a Texas federal judge on Friday blocked the Biden administration from enforcing a vaccine mandate for federal employees. Judge Brown stated "It is not even about the federal government's power, exercised properly, to mandate vaccination of its

---

<sup>47</sup> <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/osha-sends-covid-19-vaccination-rule-to-white-house-for-review.aspx>



employees," he added. "It is instead about whether the President can, with the stroke of a pen and without the input of Congress, require millions of federal employees to undergo a medical procedure as a condition of their employment. That, under the current state of the law as just recently expressed by the Supreme Court, is a bridge too far."<sup>48</sup>

UPDATE: On February 9, 2022, the 5th US Circuit Court of Appeals refused to reinstate the mandate. This allows the government to appeal to the United States Supreme Court.<sup>49</sup>

**UPDATE: On April 7, 2022, in a 2-1 ruling, a panel of the 5th Circuit Court of Appeals reversed a lower court and ordered dismissal of a lawsuit challenging the mandate. The ruling, a rare win for the administration, said that the federal judge didn't have jurisdiction in the case and those challenging the requirement could have pursued administrative remedies under Civil Service law.**<sup>50</sup> According to the Washington Post, the White House has told federal agencies to hold off on enforcing the mandate pending further court action.<sup>51</sup>

**UPDATE: On January 13, 2022, in a 5-4 decision, the United States Supreme Court allowed the CMS Health Care Employees vaccine mandate at Medicare and Medicaid Participating**

**Facilities:** The government is allowing 30 days to implement the policy, that is until Feb. 13, 2022,) for facilities to demonstrate that staff had their first vaccine doses and 60 days (by March 15) for facilities to demonstrate that staff are fully vaccinated in the 24 states subject to the injunctions lifted in the Supreme Court opinion. This extension applies only to surveyors in the following states: Alabama, Alaska, Arizona, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Utah, West Virginia and Wyoming. Texas remains subject to an injunction (which is unlikely to stand considering the Supreme Court decision), while all other U.S. states retain their current timelines (including fully vaccinated staff by Feb. 28, 2022).

**UPDATE: On March 7, 2022, the Occupational Safety and Health Administration (OSHA) announced an enforcement effort for focused inspections in hospitals, nursing care facilities treating COVID-19 patients. OSHA intends to expand its presence in targeted high-hazard healthcare facilities during a three-month period from March 9, 2022 to June 9, 2022.**<sup>52</sup>

---

<sup>48</sup> <https://www.cnn.com/2022/01/21/politics/employee-vaccine-mandate/index.html>

<sup>49</sup> <https://www.cnn.com/2022/02/09/politics/appeals-court-federal-employee-vaccine-mandate/index.html>

<sup>50</sup> <https://www.npr.org/2022/04/07/1091558679/appeals-court-oks-biden-federal-employee-vaccine-mandate>

<sup>51</sup> <https://www.washingtonpost.com/politics/2022/04/08/federal-vaccine-mandate-white-house-appeals/>

<sup>52</sup> <https://www.osha.gov/news/newsreleases/trade/03072022-0>



**UPDATE: On January 2, 2022, a Louisiana federal judge has ruled that President Joe Biden cannot require teachers in the Head Start early education program to be vaccinated against COVID-19.** U.S. District Judge Terry Doughty wrote that the Biden administration unlawfully bypassed Congress when ordering that workers in Head Start programs be vaccinated by Jan. 31 and that students 2 years or older be masked when indoors or when in close contact outdoors. The ruling affects Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Utah, Wyoming and West Virginia.

**Question:** Asking me if I have been vaccinated is asking for medical information. Isn't that a violation of HIPAA?

**Answer:** The Health Insurance Portability and Accountability Act of 1996, Pub.L. 104–191, commonly referred to as HIPAA, focuses on “protected health information” as maintained by the healthcare industry (including healthcare insurance providers) to prevent such information from being exploited via theft and fraud. HIPAA only applies to “covered entities” – healthcare providers, health plans, healthcare clearinghouses, and, to some extent, their business associates.

As recently as September 30, 2021, the U.S. Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) issued guidance to help the public understand when the HIPAA Privacy Rule applies to disclosures and requests for information about whether a person has received a COVID-19 vaccine.<sup>53</sup> This guidance from the OCR explains when the HIPAA Privacy Rule applies to disclosures and requests for information about whether a person has received a COVID-19 vaccine. Because the HIPAA Privacy Rule only applies to HIPAA covered entities, and sometimes their business associates, it does not generally apply to a store, restaurant, entertainment venue, an employer or employment records.

However, various state and federal laws may prevent an employer from asking an employee why he or she is not vaccinated. This does not, of course, mean that an employee may not choose to voluntarily disclose a pre-existing medical condition or sincerely held religious belief that prevents her from receiving the vaccine, so that the employee can request a reasonable accommodation if the employer is requiring COVID vaccination as a condition of employment.

---

<sup>53</sup> U.S. Department of Health and Human Services' (HHS), Office for Civil Rights (OCR), “HIPAA, COVID-19 Vaccination, and the Workplace” (Sept. 30, 2021), available at: <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/hipaa-covid-19-vaccination-workplace/index.html>





**Question:** How effective are these vaccines? Can vaccinated people with breakthrough cases of COVID-19 transmit the virus to others?

**Answer:** Unfortunately, the vaccines have not proven to be nearly as effective as we had all hoped. Many people who have been vaccinated have contracted COVID 19 afterward, so called “breakthrough cases”. On July 27, 2021, CDC Director Rochelle Walensky said recent studies had shown that those vaccinated individuals who do become infected with COVID have just as much viral load as the unvaccinated, making it possible for them to spread the virus to others.<sup>54</sup>

While the CDC does not track breakthrough cases, several states do. The Massachusetts Department of Public Health officials reported on November 16, 2021, that in the past week the state had 5,313 new breakthrough cases -- infections in people who have been vaccinated -- with 140 more vaccinated people hospitalized. Their report brings the total number of breakthrough cases to 64,120, and the death toll among people with breakthrough infections to 509.<sup>55</sup>

These numbers are for only one state, which indicates breakthrough cases are relatively common in the United States. This ties into concerns that the effectiveness of the vaccines may diminish over time, thus requiring booster doses. Israel has found the Pfizer vaccine to be 39% effective,<sup>56</sup> and the Mayo Clinic found the Pfizer vaccine to be only 42% effective against the Delta variant. The study raises serious questions about the vaccines' long-term effectiveness, particularly Pfizer's. It's unclear whether the results signify a reduction in effectiveness over time, a reduced effectiveness against Delta, or a combination of both. "If that's not a wakeup call, I don't know what is," a senior Biden official told Axios.<sup>57</sup>

Perhaps that is why the CDC has quietly changed the definition of “vaccination” on their website. Prior to September 1, 2021, the definition was: “The act of introducing a vaccine into the body to produce **immunity** to a specific disease.”<sup>58</sup> (Emphasis added)

---

<sup>54</sup> <https://www.cdc.gov/media/releases/2021/s0730-mmwr-covid-19.html>

<sup>55</sup> <https://www.nbcboston.com/news/coronavirus/5313-new-breakthrough-cases-in-mass-41-more-deaths-in-vaccinated-people/2568166/>

<sup>56</sup> “Israeli Data Suggests Possible Waning in Effectiveness of Pfizer Vaccine”, by Carl Zimmer, dated July 23, 2021, updated July 28, 2021. The New York Times.

<sup>57</sup> New data on coronavirus vaccine effectiveness may be “a wakeup call”, by Caitlin Owens, Axios, August 11, 2021.

<sup>58</sup> <http://web.archive.org/web/20210826113846/https://www.cdc.gov/vaccines/vac-gen/imz-basics.htm>





The definition was changed to: “The act of introducing a vaccine into the body to produce **protection** from a specific disease.”<sup>59</sup> (Emphasis added)

UPDATE: the arrival of the Omicron variant has changed the perception on whether or not vaccines can prevent infection and transmission of COVID-19. The evidence is clear that vaccination, and even vaccination plus booster, is not preventing transmission of the Omicron Variant. As of mid-December, the CDC website stated that 79% of the people who had the omicron variant were vaccinated. The National Hockey League has a 100% vaccination rate and they are currently shut down because they are overrun with COVID infections. The National Football League is 97% vaccinated and they are facing the same issues, postponing games. Cornell University has sent their students home to learn remotely because of about 1500 cases in a student body that is 97% vaccinated.

**NOTE: the ineffectiveness of the vaccines and boosters against this latest variant in essence eliminates the reason people are losing their jobs for not being vaccinated.** If they are no more likely to spread the virus than those vaccinated, why are the unvaccinated being fired? While many still promote the vaccines for the purpose of getting a less severe case of COVID, that line of reasoning makes the decision to get a vaccine an even more of an individual, personal choice, as the risk is only to the unvaccinated person.

**UPDATE: January 19, 2022-**

On January 10, 2022, Pfizer CEO Albert Bourla stated: “The two doses, they’re not enough for omicron.” Bourla said the two-dose vaccine does not provide robust protection against infection and its ability to prevent hospitalization has also declined. He said third shots are providing good protection against death, and “decent” protection against hospitalization.

On January 9, 2022, a Wall St Journal Opinion piece stated: “There is no evidence so far that vaccines are reducing infections from the fast-spreading Omicron variant.” And they argue that as a result, “there is no scientific basis whatsoever for OSHA’s vaccine mandate.”

The booster shots effectiveness against the Omicron variant appear to wane quickly, with no efficacy after 90 days. However, European Union regulators warned that frequent Covid-19 booster shots could adversely affect the immune response and may not be feasible.<sup>60</sup>

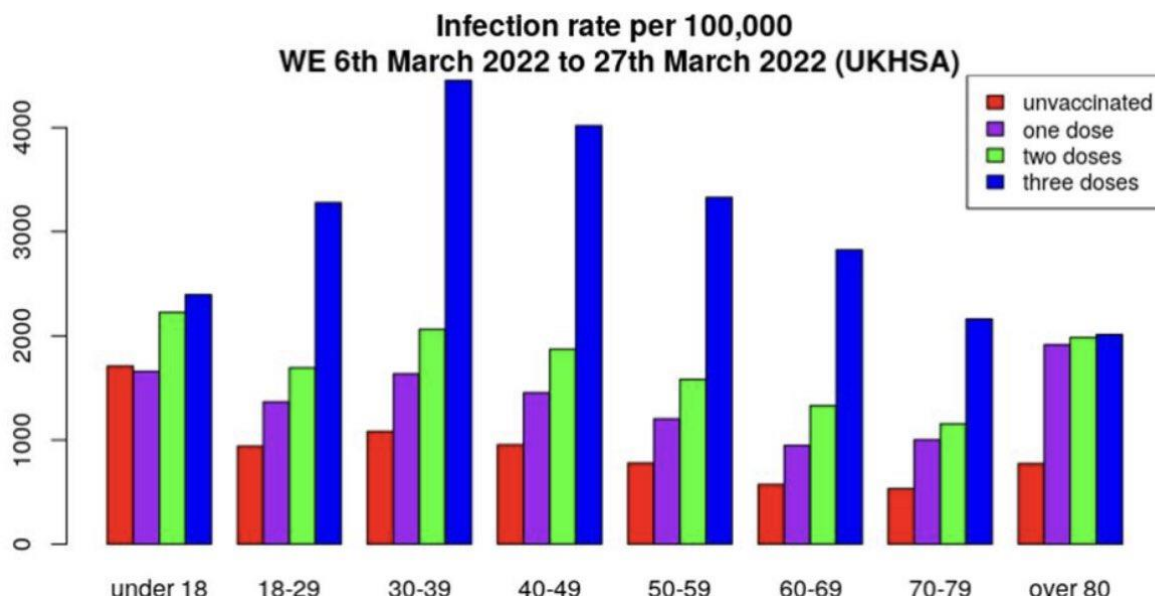
---

<sup>59</sup> <http://web.archive.org/web/20210902194040/https://www.cdc.gov/vaccines/vac-gen/imz-basics.htm>

<sup>60</sup> <https://www.bloomberg.com/news/articles/2022-01-11/repeat-booster-shots-risk-overloading-immune-system-emasays#:~:text=European%20Union%20regulators%20warned%20that,to%20the%20European%20Medicines%20Agency.>



**UPDATE: As of April 6, 2022, the latest UK data appears to show that people who've taken the third boosters are now FIVE TIMES MORE LIKELY to catch Covid-19 than unvaccinated people.<sup>61</sup>**



**UPDATE: The New York Times ran an article April 5, 2022, headlined, “Covid News: Israeli Study Says Second Booster Protects Against Omicron Infection But Wanes Fast.”<sup>62</sup> So how fast does the protection wane? The Times said “the booster’s effectiveness against infection in particular wanes after just four weeks and almost disappears after eight weeks.” The NYT reported that the findings, published yesterday in the New England Journal of Medicine, suggest that “additional boosters are likely to provide fleeting protection against Omicron infections in older recipients.” Fleeting protection. “For confirmed infection, a fourth dose**

<sup>61</sup> Jeff Childers Coffee & Covid, April 7, 2022.

<sup>62</sup> <https://www.nytimes.com/live/2022/04/05/world/covid-19-mandates-cases-vaccine>



appeared to provide only short-term protection and a modest absolute benefit,” the researchers confirmed in the study. A MODEST absolute benefit. Modest AND fleeting.<sup>63</sup>

UPDATE: April 13, 2022, Dr. Paul Offit published an editorial in the New England Journal of Medicine titled “Covid-19 Boosters — Where from Here?” In the editorial, he makes some interesting admissions about the vaccines. One of the noteworthy things about this editorial is Dr. Offit’s background and previous positions and statements regarding COVID. Offit, is Director of the Vaccine Education Center and professor of pediatrics in the Division of Infectious Diseases at Children’s Hospital of Philadelphia. He was a member of the Advisory Committee on Immunization Practices to the Centers for Disease Control and Prevention. He is a member of the Food and Drug Administration Vaccines and Related Biological Products Advisory Committee.<sup>64</sup> He has consistently supported the CDC / FDA NIH line throughout the pandemic.

In the editorial, Dr. Offit makes an apology of sorts; he explains that it was a “disappointing error” to claim that Covid vaccines would prevent mild illness and transmission, when it was OBVIOUS that they could not do so because they do not generate mucosal immunity.

He also admits that the vaccines were never trialed for preventing transmission, a statement that would have just recently been classified as misinformation. He also took on the issue of “asymptomatic infection,” stating that “a zero-tolerance strategy for mild or asymptomatic infection, which can be implemented only with frequent booster doses, will continue to mislead the public about what COVID-19 vaccines can and cannot do.”

Importantly, he admitted that the vaccines have RISKS, a plain fact the CDC is yet unwilling to say: “In addition, because boosters are not risk-free, we need to clarify which groups most benefit. For example, boys and men between 16 and 29 years of age are at increased risk for myocarditis caused by mRNA vaccines.” It was recently disclosed that Dr. Offit advised his college aged son NOT to take the booster.

He also warned “and all age groups are at risk for the theoretical problem of an ‘original antigenic sin’ — a decreased ability to respond to a new immunogen because the immune system has locked onto the original immunogen.”<sup>65</sup> He may be the first member of the “establishment medical experts” to acknowledge this possibility. Original antigenic sin could

---

<sup>63</sup> Jeff Childers Coffee & Covid, April 6, 2022.

<sup>64</sup> <https://www.chop.edu/doctors/offit-paul-a>

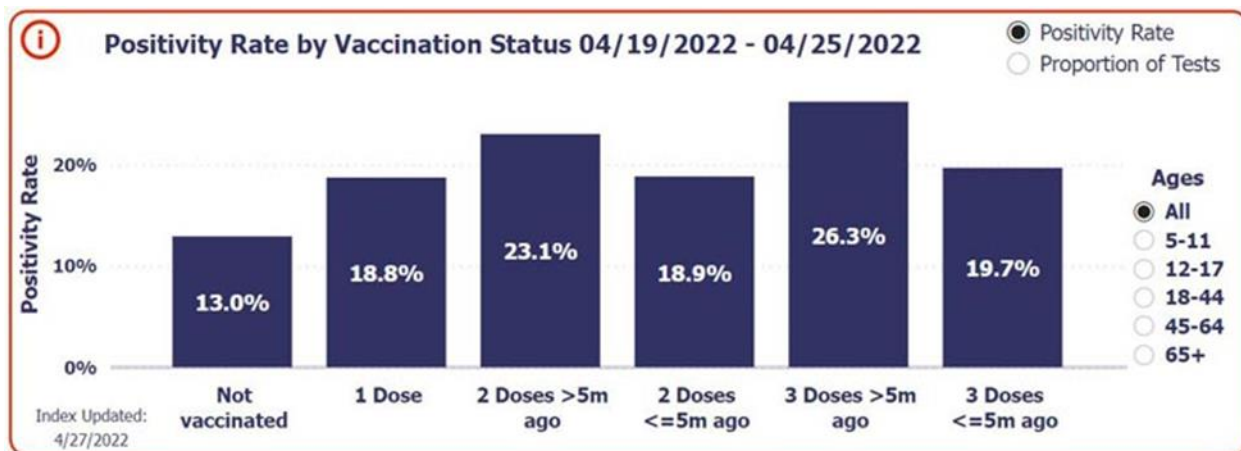
<sup>65</sup> <https://www.nejm.org/doi/full/10.1056/NEJMe2203329>



limit the ability to respond to a new variant, and could be problematic for patients both short term and long term.

**UPDATE:** According to Walgreens data, during the week of April 19 through 25, 2022, 13% of unvaccinated persons tested positive for COVID. Of those who received two doses five months or more ago, 23.1% tested positive, and of those who received a third dose five months or more ago, the positive rate was 26.3%. So, after the first booster shot (the third dose), people are at greatest risk of testing positive for COVID.

A deeper dive into the data reveals that two doses appear to have been protective for a short while, but after five months, it becomes net harmful. The group faring worst of all is the 12 to 17 cohort, where no one with one dose tested positive, but after the second dose, cases suddenly appear, and get higher still after five months. After the third dose, positive cases drop a bit, but then shoot up higher than ever after five months.<sup>66</sup>



**Question:** Vaccinations and boosters for Children ages 5-11, and even 6 months to 5 years?

**Answer:** Yes. On October 20, 2021, the Biden Administration unveiled its plan to 'quickly' vaccinate roughly 28 million children age 5-11, pending authorization from the Food and Drug Administration (FDA). According to the announcement, the White House has secured enough to

<sup>66</sup> <https://www.walgreens.com/businesssolutions/covid-19-index.jsp>



supply more than 25,000 doses for pediatricians and primary care physicians who have already signed up to deliver the vaccine, while the country now has enough Pfizer vaccine to jab roughly 28 million kids who will soon be eligible, meaning this won't be a slow roll-out like we saw 10 months ago when doses and capacity issues meant adults had to wait.

Meanwhile, the White House is rolling out an 'advertising' campaign to convince parents and kids that the vaccine is safe and effective. According to the report, "the administration believes trusted messengers — educators, doctors, and community leaders — will be vital to encouraging vaccinations." The US government has purchased 65 million doses of the Pfizer pediatric shot - which is expected to contain one-third of the dosage for adults and adolescents.<sup>67</sup>

Right on schedule, an FDA panel on October 26, 2021, recommended emergency use authorization of the Pfizer-BioNTech COVID-19 vaccine for children ages 5-11 by a vote of 17-0, with one abstention.<sup>68</sup> Then on October 29, 2021, the U.S. Food and Drug Administration authorized the emergency use of the Pfizer-BioNTech COVID-19 Vaccine for the prevention of COVID-19 to include children 5 through 11 years of age.<sup>69</sup> The children's vaccine is again approved under the Emergency Use Authorization, 21 U.S. Code § 360bbb-3.

In Pfizer's briefing document, issued before the October 26 hearing, says on page 10 "the number of participants in the current clinical development program is too small to detect any potential risks of myocarditis associated with vaccination."

And, "long-term safety of COVID-19 vaccine in participants 5 to <12 years of age will be studied in 5 post-authorization safety studies, including a 5-year follow-up study to evaluate long term sequelae of post-vaccination myocarditis/pericarditis."

Panel members also acknowledged the vaccine does not prevent transmission and wanes in efficacy after only months. And some pointed to data indicating at least 40% of children in the United States have recovered from COVID-19 and have natural immunity.

UPDATE: On January 19, 2022, World Health Organization Chief Scientist Dr Swaminathan stated: "...there's no evidence right now that healthy children, or healthy adolescents, need boosters. No evidence at all."<sup>70</sup>

---

<sup>67</sup> <https://www.zerohedge.com/covid-19/white-house-details-plan-quickly-vaccinate-28m-children-age-5-11>

<sup>68</sup> <https://www.wnd.com/2021/10/fda-panel-approves-pfizer-shot-children-age-5-11/>

<sup>69</sup> <https://www.fda.gov/news-events/press-announcements/fda-authorizes-pfizer-biontech-covid-19-vaccine-emergency-use-children-5-through-11-years-age>

<sup>70</sup> <https://www.beckershospitalreview.com/public-health/who-current-evidence-suggests-boosters-unnecessary-for-healthy->



UPDATE: “On March 7, 2022, the Florida Department of Health indicated that it will recommend against Covid vaccinations for healthy children ages 5-17. Florida’s Surgeon General, Joseph Ladapo, indicated that the State of Florida is going to issue separate guidance urging parents not to vaccinate their kids. Joseph Ladapo cited recent studies that found waning efficacy of the vaccine for kids. ‘We’re kind of scraping at the bottom of the barrel, particularly with healthy kids, in terms of actually being able to quantify with any accuracy and any confidence the even potential of benefit,’ Joseph Ladapo said after making the announcement.”<sup>71</sup>

UPDATE: Though not yet approved, both Moderna and Pfizer continue to push for vaccines. In Moderna’s study, almost 7,000 children ages 6 months through 5 years received two 25-microgram doses of the vaccine -- a quarter of the adult dose.

The shot was 43.7% effective in kids 6 months to under 2 years and 37.5% effective in kids ages 2 through 5 years.

Those results are “below the 50% generally viewed as the lower limit of approvable efficacy, so we think this two-dose regimen is unlikely to be approved,” Bloomberg Intelligence analysts Sam Fazeli and John Murphy wrote in a note. “Even if it is, the appeal seems limited.”

Regardless, Moderna will submit the data to regulators in the U.S. and overseas as soon as possible, according to a statement. The company also said it would also apply for U.S. clearance of its vaccine in 6- to 11-year-olds, after consultation with regulators.

The Biden administration has been frustrated in attempts to expedite Covid vaccines for young children as part of an effort to protect kids and their families. A two-dose formulation from partners Pfizer Inc. and BioNTech SE was slowed last month after it showed insufficient signs of effectiveness.<sup>72</sup>

**UPDATE: May 19, 2022. CDC approves boosters for children 5-11, a third or even fourth dose of vaccine.**

**A Centers for Disease Control and Prevention scientific advisory committee voted to recommend a third dose of the Pfizer-BioNTech vaccine for children aged 5 to 11, giving millions of kids the opportunity for increased protection against COVID-19. CDC director Dr. Rochelle Walensky signed off on the recommendation Thursday evening. The decision also**

---

children.html#:~:text=%22There's%20no%20evidence%20right%20now,question%20of%20how%20countries%20sould

<sup>71</sup> <https://www.coffeeandcovid.com/p/-coffee-and-covid-friday-march-11?s=r>

<sup>72</sup> <https://www.bloomberg.com/news/articles/2022-03-23/moderna-s-covid-shot-bolsters-immune-response-in-kids-under-six>



means immunocompromised children who have already received a third dose are eligible to receive a fourth shot.

Two days ago, the Food and Drug Administration authorized Pfizer-BioNTech's COVID-19 booster shot for this age group. The news comes as it becomes increasingly clear that vaccine protection against infection wanes over time.

The booster dose will be available to children five months after completing their primary series of two shots, so children who received their second dose of Pfizer-BioNTech vaccine before Dec. 19 are now eligible for a booster.<sup>73</sup>

UPDATE: May 17, 2022, vaccines for children 6 months to 5 years old may be available this summer.<sup>74</sup>

UPDATE: On May 19, 2022, the North Carolina Physicians for Freedom put out a press release regarding the COVID vaccine for children. Among the facts and data in the release are the following:

Healthy children, teens, and young adults are at minimal risk of severe complications or death due to the Covid-19 SARS-CoV-2 virus. The median IFR (infection fatality rate) was 0.0013%, at 0-19 years, using data from 12 countries - comparable to that of recent influenza viruses with above average severity.<sup>75</sup> More recent studies show an even lower IFR. Multi-country data published in BMC Infectious Diseases showed an IFR of 0.0005, or 1 per 2,000 infections among ages 0-9 years.<sup>76</sup> A California analysis of data up to May 12, 2022 found an IFR of 0.000086, or 0.86 per 10,000 infections among children under age 5.<sup>77</sup>

The vaccines are not without risk. They have been associated with a much larger number of deaths and adverse events in one year than all other childhood vaccines

---

<sup>73</sup> <https://www.usatoday.com/story/news/2022/05/19/covid-vaccine-booster-kids-cdc/9836146002/>

<sup>74</sup> <https://www.thecut.com/2022/05/when-can-kids-get-the-covid-vaccine.html>

<sup>75</sup> Infection fatality rate of COVID-19 in community-dwelling populations with emphasis on the elderly: An overview.

Axfors C, Ioannides JPA. medRxiv preprint posted July 13, 2021. <https://doi.org/10.1101/2021.07.08.21260210>

<sup>76</sup> BMC Infectious Diseases. March 29, 2022.

<https://bmcinfectdis.biomedcentral.com/articles/10.1186/s12879-022-07262-0>

<sup>77</sup> CoVID-19 Age, Race, and Ethnicity Data. California Department of Public Health. May 13, 2022.

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Age-Race-Ethnicity.aspx>





combined in the VAERS system over the past 31 years.<sup>78</sup> Even this high number of deaths probably under-reports by a factor of 20 to 41 according to two analyses.<sup>79, 80</sup>

Serious reactions include myocarditis—an inflammation of the heart that causes heart muscle to die, blood clots, and severe disability affecting the nervous system. A European Journal of Clinical Investigation analysis showed a relative risk of hospitalization for myo/pericarditis among boys age 12 to 15 after the second dose of BNT162b2 vaccine 2.8 times higher than their 120-day COVID-19 hospitalization risk. International estimates of post-vaccine risk exceeded the highest COVID-19 hospitalization risk by 6.5 times.<sup>81</sup>

Dr. Peter McCullough, one of the world's leading cardiologists and experts in Covid-19 vaccine risks, offers the following statement for NCPFF: "Heart damage cannot be minimized as rare or mild. All forms of heart damage are serious and in children, the long-term consequences are not known and could be very serious if not fatal."

It's also important to note, according to the CDC, 74.2% of children age 0-11 already have natural immunity.<sup>82</sup>

**Question:** Is there an issue with heart inflammation after taking the vaccines?

**Answer:** On June 25, 2021, the FDA added a warning to the literature that accompanies Pfizer Inc. /BioNTech and Moderna COVID vaccine shots to indicate the rare risk of heart inflammation after its use. The fact sheets for healthcare providers have been revised to

---

<sup>78</sup> VAERS Summary for COVID-19 Vaccines through 01/07/2022 – period December, 2020 through 01/07/22

<https://vaersanalysis.info/2022/01/14/vaers-summary-for-covid-19-vaccines-through-01-07-2022>

<sup>79</sup> Rose J, Crawford M. Estimating the number of COVID vaccine deaths in America [Internet].

Available from: [https://downloads.regulations.gov/CDC-2021-0089-0024/attachment\\_1.pdf](https://downloads.regulations.gov/CDC-2021-0089-0024/attachment_1.pdf)

<sup>80</sup> COVID vaccination and age-stratified all-cause mortality risk. Pantazatos SP, Seligmann H. Preprint October 2021.

DOI:10.13140/RG.2.2.28257.43366

<sup>81</sup> BNT162b2 Vaccine-Associated Myo/Pericarditis in Adolescents: A Stratified Risk-Benefit Analysis. European Journal of Clinical Investigation. Feb14, 2022. <https://onlinelibrary.wiley.com/doi/10.1111/eci.13759>

<sup>82</sup> Seroprevalence of Infection-Induced SARS-CoV-2 Antibodies. Centers for Disease Control. MMWR Early Release <https://www.cdc.gov/mmwr/volumes/71/wr/mm7117e3.htm>





include a warning that reports of adverse events suggest increased risks of myocarditis and pericarditis.<sup>83</sup>

As of July 30, 2021, VAERS has received 1,249 reports of myocarditis or pericarditis among people ages 30 and younger who received COVID-19 vaccine. Most cases have been reported after mRNA COVID-19 vaccination (Pfizer-BioNTech or Moderna), particularly in male adolescents and young adults. Through follow-up, including medical record reviews, CDC and FDA have confirmed 716 reports of myocarditis or pericarditis. CDC and its partners are investigating these reports to assess whether there is a relationship to COVID-19 vaccination.<sup>84</sup>

In regard to vaccination of those under 18, the survivability rates of children under 18 is 99.997% according to the CDC. More than twice the number of children die each year of pneumonia than have died from Covid. More than three times die from drowning, more than six times from auto accidents.<sup>85</sup>

**UPDATE: May 19, 2022, see additional information listed under “Vaccinations and boosters for Children ages 5-11, and even 6 months to 5 years”, starting on page 30.**

**Question:** Is there a risk of developing Guillain-Barré Syndrome from a vaccine?

**Answer:** On July 13, 2021, the FDA announced revisions to the vaccine recipient and vaccination provider fact sheets for the Johnson & Johnson (Janssen) COVID-19 Vaccine to include information pertaining to an observed increased risk of Guillain-Barré Syndrome (GBS) following vaccination, "Reports of adverse events following use of the Janssen COVID-19 Vaccine under emergency use authorization suggest an increased risk of Guillain-Barré syndrome during the 42 days following vaccination," the updated label reads. "Guillain Barré syndrome (a neurological disorder in which the body's immune system damages nerve cells, causing muscle weakness and sometimes paralysis) has occurred in some people who have received the Janssen COVID-19 Vaccine," the FDA says in the label update for patients and caregivers." In most of these people, symptoms began within 42 days following receipt of the Janssen COVID-19 Vaccine. The chance of having this occur is very low," it adds. The CDC and FDA briefly paused use of the Johnson & Johnson vaccine earlier this year because of a risk of a rare type of blood clotting complication but lifted the pause in April after determining the risk

---

<sup>83</sup> "FDA adds warning about rare heart inflammation to Pfizer, Moderna COVID shots", Reuters, June 25, 2021.

<sup>84</sup> Centers for Disease Control, "Selected Adverse Events Reported after COVID-19 Vaccination", August 2, 2021

<sup>85</sup> "The Kids Are Alright Why now is the time to rethink COVID safety protocols for children — and everyone else." by David Wallace-Wells, Intelligencer, July 12, 2021.



was low and the condition was treatable. The vaccine's label was updated to warn about the risk.<sup>86</sup>

**Question:** Is there a legal basis to challenge a vaccine mandate?

**Answer:** When attorneys look at an issue or a set of facts to determine whether there is a legal basis for a lawsuit, relevant statutes and prior case law are the best indicators of how a particular case will play out. However, the issues surrounding mandatory Covid vaccines are so new that there is no settled case law, and very few cases currently in progress in the courts.

Some who advocate for mandatory Covid vaccinations point to *Jacobson v. Commonwealth of Massachusetts*<sup>87</sup>, a 1905 decision regarding a mandatory smallpox vaccine. The Supreme Court held that government actions taken in the context of a public health crisis are subject to a more deferential review:

“In every well-ordered society charged with the duty of conserving the safety of its members the rights of the individual in respect of his liberty may at times, under the pressure of great dangers, be subjected to such restraint, to be enforced by reasonable regulations, as the safety of the general public may demand.”

But there are significant differences in the circumstances surrounding *Jacobson* and our current circumstances regarding Covid. First of all, the state of Massachusetts imposed a five dollar fine for refusing to take the vaccine. In today's money that would be approximately \$140. This hardly equates with losing a job and / or damaging a career.

Secondly, while many lives were lost due to Covid, when you look at the situation today, younger persons in good health have an extremely high survival rate when infected with the Covid 19 virus. This is much different than smallpox in 1905.

In any event, the United States Supreme Court has made it clear that *Jacobson* is not controlling law in regard to Covid 19. In July of 2020, in *Calvary Chapel Dayton Valley v. Sisolak*<sup>88</sup>, Justice Alito recognized the need for emergency action at the beginning of the pandemic when little was known about infection or mortality rates. But he then raises the question as to whether we

---

<sup>86</sup> “FDA warns of potential rare neurological complication with Johnson & Johnson coronavirus vaccine”, by Amanda Sealy, John Bonifield and Maggie Fox, CNN, Jul 13, 2021

<sup>87</sup> 197 U.S. 11, 25 S. Ct. 358, 49 L. Ed. 643 (1905).

<sup>88</sup> 2020 U.S. LEXIS 3584, 2020 WL 4251360 (July 24, 2020).



are still in such an emergency that unquestioned drastic action is needed 10 months later. Then in November 2020, Justice Gorsuch wrote in *Roman Catholic Diocese v. Cuomo*<sup>89</sup>:

“Government is not free to disregard the First Amendment in times of crisis . . . Yet recently, during the COVID pandemic, certain States seem to have ignored these long-settled principles.”

“Put differently, Jacobson didn’t seek to depart from normal legal rules during a pandemic, and it supplies no precedent for doing so. Instead, Jacobson applied what would become the traditional legal test associated with the right at issue—exactly what the Court does today . . . Nothing in Jacobson purported to address, let alone approve, such serious and long-lasting intrusions into settled constitutional rights. In fact, Jacobson explained that the challenged law survived only because it did not “contravene the Constitution of the United States” or “infringe any right granted or secured by that instrument.” . . .

There are a number of arguments available to fight against the vaccines, and numerous lawsuits are making their way through the courts as of this writing. However, thus far there have not been any decisions that are helpful in stopping mandatory vaccinations for employees and students. We are hopeful that one or more of these cases will find their way to the Supreme Court of the United States, for a definitive decision. The Pacific Justice Institute will continue to file lawsuits as appropriate, and will closely monitor decisions on all vaccines lawsuits throughout the nation. We will update this resource with any noteworthy news and decisions.

However, there have been several decisions that uphold religious liberty, requiring employers, colleges, and in Arizona even business patrons, to acknowledge the religious exemption / accommodation.

On August 20, 2021, the Arizona Attorney General issued an opinion that Arizona law should be followed in situations regarding the vaccine, and not *Jacobson v Massachusetts*. Accordingly, the ruling stated that Arizona public schools, state-sponsored colleges and universities, and employers must make accommodation for sincerely held religious beliefs. In addition, the opinion states that businesses that are places of public accommodation and that mandate vaccination for patrons must provide reasonable accommodations to patrons who cannot obtain the COVID-19 vaccine due to disability and they must not discriminate against customers

---

<sup>89</sup> 208 L. Ed. 2d 206, 2020 U.S. LEXIS 5708, 28 Fla. L. Weekly Fed. S 590, \_\_ S.Ct. \_\_, 2020 WL 6948354 (Nov. 25, 2020).



who cannot obtain such a vaccine due to a sincerely-held religious belief. Again, this opinion covers only the state of Arizona.<sup>90</sup>

In Wisconsin, a County Public Health Officer ordered that all schools be closed for in-person learning for grades three through 12. A Catholic school filed a lawsuit against this action, and the Wisconsin Supreme Court found that the “portions of Heinrich's Order restricting or prohibiting in-person instruction are both statutorily and constitutionally unlawful, and are hereby vacated. Local health officers do not have the statutory authority to close schools under Wis. Stat. § 252.03. Article I, Section 18 of the Wisconsin Constitution— —not *Jacobson*— — controls the constitutional question. Because Heinrich's Order violates the Petitioners' fundamental constitutional right to the free exercise of religion, it cannot stand.”<sup>91</sup> Again, this applies only to the state of Wisconsin.

During the pandemic, California Governor Gavin Newsom closed all schools for in-person instruction, both public and private. A lawsuit was filed by 14 parents and one student of a private school challenging Newsom's order. The United States Court of Appeals for the Ninth Circuit found that “as to the provision of private education, California's ban on in-person schooling during the Covid-19 pandemic abridged a fundamental liberty protected by the Due Process Clause of the Fourteenth Amendment, which could not be said to survive strict scrutiny, given the State closure order's lack of narrow tailoring...” Therefore, the court ruled that the governor had the authority to close public schools, but not private schools.<sup>92</sup>

It should also be noted that PJI has been successful in causing a number of government sponsored colleges and universities to change their policies regarding religious exemptions / accommodations for students and employees, by threatening court action.

Looking generally at other possible legal arguments, the United States Supreme Court in the case of *West Virginia State Board of Education v. Barnette*,<sup>93</sup> stated:

“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”

---

<sup>90</sup> 2021 ARIZ. AG LEXIS 7 \*; Ariz. Op. Att'y Gen. No. 6, August 20, 2021.

<sup>91</sup> *James v. Heinrich*, 2021 WI 58, 397 Wis. 2d 516, 960 N.W.2d 350, 2021 Wisc. LEXIS 91

<sup>92</sup> *Brach v. Newsom*, 2021 U.S. App. LEXIS 21912, \_\_\_ F.4th \_\_\_

<sup>93</sup> *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 63 S. Ct. 1178, 87 L. Ed. 1628, 1943 U.S. LEXIS 490, 147 A.L.R. 674



Therefore, anytime a government actor orders you to be a recipient of the vaccine, and that conflicts with your sincerely held religious belief, they may be in violation of the First Amendment. They may also be in violation of the Religious Freedom Restoration Act (RFRA).

Also, there is an argument for basic freedom, the right to life, liberty, and a pursuit of happiness. This resource has previously quoted the large number of deaths and serious illnesses that have been reported to be a result of the Covid vaccines. According to the CDC, the chance of surviving Covid without any treatment at all is as follows: age 0-19 (99.997%), 20-50 (99.98%), 50-69 (99.5%), and >age 70 (95%)<sup>94</sup>. As Americans compare the adverse effects with the survival rates, they should have the freedom to decide whether or not to take the Covid vaccine.

Lastly, we have already discussed Title VII of the Civil Rights Act of 1964, which protects employees from discrimination based on religion.

**Question:** What are the basic roles and powers of the government regarding vaccines?

**Answer:** In general, administering vaccines have not been the role of the federal government. In a report by the Congressional Research Service in 2014, discussing mandatory vaccinations, the report noted that: “Historically, the preservation of the public health has been the primary responsibility of state and local governments, and the authority to enact laws relevant to the protection of the public health derives from the state’s general police powers.” “Federal jurisdiction over public health matters derives from the Commerce Clause of the United States Constitution, which states that Congress shall have the power “[t]o regulate Commerce with foreign Nations, and among the several States....”

Congress has enacted requirements regarding vaccination of immigrants seeking entry into the United States, and military regulations require American troops to be immunized against a number of diseases. The Secretary of Health and Human Services has authority under the Public Health Service Act to issue regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the states or from state to state. Current federal regulations do not include any mandatory vaccination programs; rather, when compulsory measures are needed, measures such as quarantine and isolation are generally utilized to halt the spread of communicable diseases.<sup>95</sup>

---

<sup>94</sup> TEN MEDICAL FACTS REGARDING THE COVID-19 EXPERIMENTAL VACCINES, Dr. Shelley Cole, Medical Director AFLDS, dated April 12, 2021.

<sup>95</sup> “Mandatory Vaccinations: Precedent and Current Laws”, Congressional Research Service, Jared P. Cole, Legislative Attorney, Kathleen S. Swendiman, Legislative Attorney May 21, 2014



States, however, have traditionally handled vaccinations and have even mandated them in an emergency. This resource has discussed *Jacobson v. Massachusetts* from 1905 regarding the smallpox vaccine. State governments have also mandated vaccines in their schools for many years, and that right was upheld by the United States Supreme Court in 1922, in the case of *Zucht v. King*.<sup>96</sup>

**Question:** Can a store or restaurant make me show proof of vaccination before doing business with me or letting me inside? Can I be required to get a vaccine passport to get into certain venues?

**Answer:** Generally, businesses have the right to refuse to serve persons as long as the reason is not discriminatory and it serves a legitimate purpose. For example, store management can ask someone to leave if they have no shirt or no shoes. Dressing in this manner may be upsetting to customers, causing them to leave or avoid a place of business, and thus constitutes a legitimate purpose.

However, you cannot refuse to serve someone who is in a protected class, because they are in that protected class. Race, ethnicity, sex, religion, are just some of the protected categories. Some states have additional protected categories to those of federal law.

You can also be excluded by businesses for conduct, even if it is conduct that is your right. For example, as an adult you have the right to smoke, but a store owner can require you to leave because your conduct can upset or endanger other customers. The same with being intoxicated, or being loud and boisterous.

In regard to requiring the wearing of a mask, that would very likely be considered a legitimate purpose because it is for the safety of employees and customers. The same is likely true for requiring proof you have taken the COVID vaccine.

If you should file a lawsuit because you were prohibited from entering or required to leave a place of business and you were not discriminated against as a member of a protected class, the remedy would likely be the ability to enter and remain in that place of business in the future. This is hardly a deterrent for inappropriate behavior on the part of a proprietor.

But a number of state legislatures and governors have taken action to preserve the rights of their citizens, to prohibit vaccine passports and / or to prohibit the requirement to prove you're vaccinated. Conversely, New York City, Los Angeles, San Francisco and other locations are requiring vaccine passports / proof of vaccination for entry.

---

<sup>96</sup> 260 U.S. 174, 176 (1922)



According to the Becker's Hospital Review, as of September 1, 2021, seven states are looking to provide a digital solution for storing proof of vaccinations while, 21 states have implemented bans on vaccine passports in some capacity. The states with some sort of vaccine passports are California, Colorado, Hawaii, New York, Illinois, Louisiana, and New Jersey.

The states with some sort of prohibition against passports are Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, New Hampshire, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and Wyoming.<sup>97</sup>

It is critical that citizens become involved with their government on all levels. Participation in government is vital to a thriving democracy, or in our case a representative republic. If you feel strongly about issues relating to vaccine passports or not being required to provide proof of Covid vaccination to travel, transact business, attend church, school or work, or participate in leisure or recreational activities, you should contact your elected representatives at the local, state, and federal level about executive and legislative guarantees that will preserve your liberty and freedom. Remember to support those elected officials or candidates that fight for rights that are important to you.

**Question:** What if I have a medical condition and a letter from my doctor exempting me from the vaccine? Can I be excused from the passport?

**Answer:** If you are considered disabled under the Americans with Disabilities Act and are refused service because of that disability, that is likely discrimination under the ADA, and you should have legal recourse. Federal law prohibits discrimination against disabled Americans and it can have serious consequences. But other than an ADA violation, the establishment will likely face little or no consequences for not honoring your doctor's note.

**Question:** What if a Covid vaccine is required for admission to a college or university?

**Answer:** Some colleges and universities are requiring vaccinations as a prerequisite for living on campus or attending in-person classes. However, as stated previously, in regard to state (government) sponsored institutions, if getting the Covid vaccine violates a student's sincerely held religious beliefs, there may be a basis for legal action under the First Amendment or applying state anti-discrimination laws.

---

<sup>97</sup> "Vaccine passports: 7 states with digital credentials & 21 states with bans", by Hannah Mitchell, Becker's Hospital Review, September 1, 2021.





In addition, 44 of our 50 states allow religious exemption for vaccinations. Only California, Connecticut, New York, Maine, Mississippi and West Virginia do not.<sup>98</sup>

For example, should any government sponsored institution of higher learning in California not allow for religious exemption to a Covid vaccine mandate, there are state laws prohibiting religious discrimination. An action could be brought for religious discrimination under Article 3, Section 220 of the California Education Code, Prohibition of Discrimination; as well as California Government Code, Article 9.5, Section 11135, Discrimination.<sup>99</sup>

As previously mentioned, refusal by government sponsored institutions of higher learning to allow religious exemptions may violate the First Amendment of the United States Constitution, which would be enforced under federal law by 42 U.S.C. § 1983.

The Fair Housing Act prohibits discrimination based on religion,<sup>100</sup> and student housing owned by the college or university falls under the Fair Housing Act.<sup>101</sup> Therefore, if a student is refused student housing on the basis of not being a recipient of the COVID vaccine, and the college or university refuses to allow religious exemptions, there may be an action for discrimination under the Fair Housing Act. This argument could be made against private colleges or universities as well as government sponsored institutions.

As previously discussed, there have been a number of court cases supporting the rights of students in state sponsored colleges and universities to get a religious exemption / accommodation from the vaccine. The Pacific justice Institute provides a resource to assist students in applying for the religious exemption / accommodation [here](#).

**Question:** Does my employer have to pay for mandatory COVID-19 testing?

**Answer:** Possibly, depending on circumstances and which state you are in. There are laws being proposed in a number of states to help workers falling under the Biden Vaccine Mandates, so this list may not be complete and is subject to change.

---

<sup>98</sup> "States with Religious and Philosophical Exemptions from School Immunization Requirements", National Conference of State Legislatures, April 30, 2021.

<sup>99</sup> Brennon B. v. Superior Court, 57 Cal. App. 5th 367, 2020 Cal. App. LEXIS 1077, 271 Cal. Rptr. 3d 320, 2020 WL 6689639

<sup>100</sup> HOUSING DISCRIMINATION UNDER THE FAIR HOUSING ACT, U.S. Department of Housing and Urban Development

<sup>101</sup> United States v. Univ. of Neb. at Kearney, 940 F. Supp. 2d 974, 2013 U.S. Dist. LEXIS 56009, 2013 WL 1694603





**Federal Law-** the Biden private employer mandate specifically states that employers are not required to pay for testing of those choosing not to take the vaccine.

The Fair Labor Standards Act (FLSA) - If the testing costs would in effectively cause the employee's salary to fall below minimum wage, then the employer would need to pay for testing. The FLSA also covers any testing mandated by an employer and time taken outside of normal working hours to obtain testing. The question is whether the testing is required by the employer or the government.

**State Law- California-** the CA Dept. of Industrial Relations has stated that employers are responsible for the costs of employer-mandated COVID-19 testing under the state's reimbursable business expense law. They opined that the employer should be paying for both the employer-mandated testing and compensating for the time spent obtaining this testing every week where such time is considered "hours worked."

**State Law- Kentucky-** An employer may not require any employee or applicant to pay the cost of a medical examination or the cost of furnishing any records required by the employer as a condition of employment.

**State Law- Illinois-** No employer may require an employee or applicant to pay the cost of a medical examination or the cost of furnishing any records of such examination required by the employer as a condition of employment.

**State Law- Pennsylvania-** Requires employers to cover work-required testing unless the testing is mandated by law

**NOTE:** Some insurance plans may cover the cost of COVID-19 testing, including those done by "chain" pharmacies such as Walgreens and CVS.

**UPDATE: COVID-19 Paid Leave Is Back in Philadelphia.** The Philadelphia City Council recently passed a third iteration of the Public Health Emergency Leave law that will guarantee up to forty hours of paid sick leave for Philadelphia employees to recover from COVID-19 or avoid exposing others, to care for a family member with COVID-19 or who exhibits symptoms that might jeopardize the health of others, to care for a child whose school or place of care has closed due to COVID-19, or to take time off to obtain a COVID-19 vaccine or booster shot (and address any side effects related to such vaccination). The bill applies to any employer with at least twenty-five employees.<sup>102</sup>

---

<sup>102</sup> <https://www.natlawreview.com/article/covid-19-paid-leave-back-philadelphia>



**Question-** Are there any vaccines coming that are more like the traditional vaccines we have taken as children?

**Answer-** Yes. Novavax has a different type of vaccine. Moderna and Pfizer are mRNA vaccines. This one is a protein subunit vaccine. It's a type of vaccine that we have used for flu, hepatitis, and HPV in the past. The company says they plan to seek full authorization to distribute the vaccine within the next few months.<sup>103</sup>

However, there has been resistance from the FDA regarding the Novavax vaccine. On June 24, 2021, Atlantic magazine published an article titled: "The mRNA Vaccines Are Extraordinary, but Novavax Is Even Better", pointing out the lack of publicity surrounding the Novavax vaccine, even though it was a traditional vaccine and was more effective than the current vaccines and testing showed a greatly reduced rate of side effects. The article goes on to say the FDA does not appear to be eager to approve it, and it could be months until it is approved:

*"At the end of January, reports that yet another COVID-19 vaccine had succeeded in its clinical trials—this one offering about 70 percent protection—were front-page news in the United States, and occasioned push alerts on millions of phones. But when the Maryland-based biotech firm Novavax announced its latest stunning trial results last week, and an efficacy rate of more than 90 percent even against coronavirus variants, the response from the same media outlets was muted in comparison."*

*"If the FDA sees no urgency, the Novavax vaccine might not be available in the U.S. for months, and in the meantime the national supply of other doses exceeds demand. But the asymmetry in coverage also hints at how the hype around the early-bird vaccines from Pfizer and Moderna has distorted perception. Their rapid arrival has been described in this magazine as "the triumph of mRNA"—a brand-new vaccine technology whose "potential stretches far beyond this pandemic." Other outlets gushed about "a turning point in the long history of vaccines," one that "changed biotech forever." It was easy to assume, based on all this reporting, that mRNA vaccines had already proved to be the most effective ones you could get—that they were better, sleeker, even cooler than any other vaccines could ever be."<sup>104</sup>*

But recently The CDC announced that participants in the Novavax PREVENT-19 Phase 3 clinical trial are considered fully vaccinated two weeks after they have completed the vaccine series.

---

<sup>103</sup> "Novavax Vaccine getting ready to apply for full approval", by Joeli Poole, WDEF News, Chattanooga, TN, September 7, 2021.

<sup>104</sup> "The mRNA Vaccines Are Extraordinary, but Novavax Is Even Better", by Hilda Bastian, The Atlantic, June 24, 2021.



On September 14, 2021, Japan secured 150 million doses of the Novavax vaccine.<sup>105</sup> These are encouraging signs that may point to a fourth-quarter 2021 approval.

**UPDATE:** Novavax was approved for conditional use in Europe on December 21, 2021.

**UPDATE:** The ongoing saga of Novavax continues, this update has positive news. As of November 18, 2021, the vaccine received emergency use authorization in Indonesia and the Philippines, and has completed submissions for regulatory approval to the UK, the EU regulator, Canada and also to the World Health Organization (WHO), which covers recommendations for low-income countries. Further submissions are expected to follow in other countries, including New Zealand and the US.<sup>106</sup>

**UPDATE: On January 10, 2022,** Novavax announced they have applied for approval in 10 countries, Japan, the United Arab Emirates, Singapore, New Zealand, Canada, Australia, South Africa and the United Kingdom. Novavax recently shipped its first doses of the vaccine to Europe, after receiving authorization from European Union regulators in December 2021.<sup>107</sup> It has also secured authorizations in India, Indonesia and the Philippines, where Novavax's partner Serum Institute of India will supply.<sup>108</sup> **On January 10, 2022, Stanley Erck, the CEO of U.S. vaccine maker Novavax, said he expects 10 regulatory agencies including the U.S.'s to approve Novavax's COVID-19 shot in the next 90 days.**<sup>109</sup>

**UPDATE: On January 31, 2022, Novavax submitted a request to the U.S Food and Drug Administration (FDA) for Emergency Use Authorization (EUA).**

**Question:** Are attitudes toward COVID restrictions changing?

**Answer:** Yes, that appears to be the case.

Many of the European countries have announced that they will move forward treating Covid as just another endemic disease. Denmark, Norway, Switzerland, and the Czech Republic have all

---

<sup>105</sup> "Novavax Vaccine getting ready to apply for full approval", by Joeli Poole, WDEF News, Chattanooga, TN, September 7, 2021.

<sup>106</sup> <https://theconversation.com/novavax-covid-vaccine-is-nearing-approval-but-what-impact-will-it-have-171647>

<sup>107</sup> <https://www.cnbc.com/2022/01/10/novavax-ceo-covid-vaccine-could-be-cleared-in-multiple-countries-soon.html>

<sup>108</sup> <https://www.reuters.com/business/healthcare-pharmaceuticals/novavax-submits-data-us-fda-covid-19-vaccine-2021-12-31/>

<sup>109</sup> <https://fortune.com/2022/01/11/us-novavax-approval-covid-vaccine-when-fda/>



started lifting Covid-related restrictions, such as limits on gatherings and requiring Covid Passes to enter certain venues. Finland, Ireland, France, and Lithuania are easing many requirements.

Most of these countries plan to be as close to “normal” as possible by March. The United Kingdom has lifted work-from-home requirements, mandatory masking, and requiring Covid Passes to enter venues.

The prime minister of Great Britain, Boris Johnson, also held a press conference on January 19, 2022, and announced that England’s Covid restrictions and vaccine passports would be terminated in March — at the latest. “People in England will no longer be required to wear face masks anywhere or work from home from next week,” Prime Minister Boris Johnson said. Prime Minister Johnson’s current assessment is that the nation’s plummeting Omicron infection numbers and stabilizing hospital rates indicate that the UK can “safely live with Covid.”

Spain is preparing to adopt a different COVID-19 playbook. With one of Europe's highest vaccination rates and its most pandemic-battered economies, the government is laying the groundwork to treat the next infection surge not as an emergency but an illness that is here to stay. Similar steps are under consideration in neighboring Portugal.<sup>110</sup>

The leader of Ireland’s lower house, Tánaiste Leo Varadkar, told his party leaders that it was time to wrap up the pandemic. “I think it’d be really good if we could set March 31 as our target for ending all legal restrictions, the legislation around masks and Covid passes and all the rest of it expires on March 31,” he told Irish lawmakers.<sup>111</sup>

The Czech government scrapped a decree on Wednesday making COVID-19 vaccinations mandatory for key professionals and over 60s to avoid “deepening fissures” in society, while the daily tally of new cases hit a record high. Prime Minister Petr Fiala said his new centre-right government did not see reasons for compulsory inoculation as the previous administration had planned in some sectors.<sup>112</sup>

South Africa was the first country to detect Omicron. It was named by the World Health Organization on November 26, 2021. And by the end of December, South Africa’s Ministerial Advisory Committee recommended ditching all of their remaining Covid restrictions, such as quarantining and contact tracing.<sup>113</sup>

---

<sup>110</sup> <https://www.foxnews.com/world/covid-19-europe-considers-accepting-virus>

<sup>111</sup> <https://www.msn.com/en-gb/news/uknews/tanaiste-seeks-march-31-deadline-to-lift-almost-all-covid-restrictions/ar-AASUHBi>

<sup>112</sup> <https://www.reuters.com/world/europe/czech-republic-reports-28469-new-cases-coronavirus-record-daily-tally-2022-01-19/>

<sup>113</sup> <https://www.zerohedge.com/political/mandates-are-leaving-europe-freedom-winning>



In Canada, the truckers protest has resulted in the Prime Minister instituting an emergency powers act to crack down on the protesters. However, five of Canada's eleven provinces — their states — have rejected the Emergencies Act, which appears to require ratification in each province. Ontario is the most populous province, and the capital city of Ottawa is “ground zero” for the protest. Ontario's premier Doug Ford stated on February 15, 2022,

“You can go shopping ... [and] you don't know if the person beside you has the shot or not. But we also know that it doesn't matter if you have one shot or ten shots. You can catch Covid. See, the Prime Minister has triple shots; I know hundreds of people with three shots that caught Covid. We just have to be careful, always make sure we wash our hands, and move forward.

And every single person including myself knows people that're unvaccinated. Sure, there's the rabble rousers. And then there's just hard working people that just don't believe in it. And that's THEIR CHOICE. This is about — again — a democracy and freedoms and liberties. I hate, as a government, telling anyone what to do.

We can't stay in this position forever. We've got to learn to live with this and get on with our lives. I bet if I asked every single person in this room do you want these damn masks or do you want them off — they want 'em off. They want to get back to normal. They want to be able to go out to dinner with their families.

We just got to get moving forward and get out of this and protect the jobs. You know, I think a lot of people — probably yourself too — everyone's done with this. Like, we are DONE with it. Let's start moving on, and cautiously. We've followed the rules. All of us. 90% of us. For over two years. The world's done with it. So let's just move forward.”<sup>114</sup>

### Meanwhile, in the United States-

Attitudes seem to be changing in the United States as well. Some blue states and Washington, DC, are voluntarily dropping their mask mandates. Even people like US Representative Ted Lieu, Democrat, California, is talking about lifting COVID restrictions and natural immunity, tweeting: “With the rapid decline of Omicron, pandemic restrictions will be lifted sooner rather than later. In considering when to do so, health officials must factor in natural immunity, not just vaccination rates.”<sup>115</sup>

---

<sup>114</sup> Rebel News interview with Doug Ford, video poste on twitter.

<https://twitter.com/TheRealKeean/status/1493657270319816707?s=20&t=NJ2ptiH7tul7HemTeycofw>

<sup>115</sup> <https://twitter.com/TheRealKeean/status/1493657270319816707?s=20&t=NJ2ptiH7tul7HemTeycofw>



Some analysts / commentators are speculating that the State of the Union Address scheduled for March 1, 2022, may be the vehicle to relax COVID restrictions in the US. Among the reasons cited are the mandates are unpopular with potential voters in the upcoming midterm elections. In addition, it has been announced that a trucker's convoy protest is reportedly being organized to begin on February 23, 2022, leaving Barstow, California, and traveling to Washington DC, with groups of truckers joining as they cross the US.<sup>116</sup>

On February 2, 2022, the Wall Street Journal published an op-ed by regular columnist Daniel Henninger this week headlined, "End the Covid Panic Now," with a subhead saying "Biden should declare the pandemic is over, so Americans can return to normal lives."

Henninger says the costs of the pandemic are unaffordably high, and the White House needs to end it — not as a state of mind — but as a matter of official U.S. government policy.

However, Project Veritas released a video on February 15, 2022, showing FDA Executive Officer, Christopher Cole discussing vaccines. In the video, Cole states the goal of the Biden administration is to require everyone to get an annual COVID vaccination, starting with mandatory vaccination of children for school. He talks about how useful the Emergency Use Authorization is, because it requires less testing. He also discusses revenue and profits for pharmaceutical companies are a substantial part of the motive behind the goal. The FDA acknowledged the video, stating: "The person purportedly in the video does not work on vaccine matters and does not represent the views of the FDA."<sup>117</sup>

**UPDATE: On February 22, 2022, the New York Times published an article titled "The C.D.C. Isn't Publishing Large Portions of the Covid Data It Collects". A key quote in the article is "But the C.D.C. has been routinely collecting information since the Covid vaccines were first rolled out last year, according to a federal official familiar with the effort. The agency has been reluctant to make those figures public, the official said, because they might be misinterpreted as the vaccines being ineffective."<sup>118</sup>**

**Question:** How deadly is COVID in March of 2022?

**Answer:** It is not very deadly at all. The current death rates of Covid-19 per 100,000 people has fallen to 0.39 per 100,000. The annual death rate of influenza per 100,000 people is 1.8, more than 4 times higher than COVID. According to the Financial Times of London, the Covid death

---

<sup>116</sup> <https://thepeoplesconvoy.org/>

<sup>117</sup> <https://www.projectveritas.com/news/fda-executive-officer-on-hidden-camera-reveals-future-covid-policy-biden/>

<sup>118</sup> <https://www.nytimes.com/2022/02/20/health/covid-cdc-data.html>



rate in England is nearly identical at .4%, also lower than the flu.<sup>119</sup> Back to the US, the annual death rate from traffic accidents per 100,000 people is 11, and the annual death rate from drowning per 100,000 people is 1.23. Individuals in a free country should have the right to assume the risk.

It is worth noting that 81.5% of Americans have received at least one dose of a Covid vaccine. Tens of millions of additional Americans have been infected with Covid-19 and developed natural immunity. This natural immunity puts them at much lower risk of subsequent infection and infection of others according to nearly all of the available scientific literature, more than 150 documented studies.

The overwhelming majority of Americans have been vaccinated or have natural immunity, and everyone has free access to potentially life-saving and disease-mitigating measures. Nevertheless, government and private actors continue to impose vaccination mandates, mask mandates, and other restrictions on Americans' daily lives in reliance on continued emergency declarations.<sup>120</sup> Those government officials and employers imposing vaccine mandates in 2022 are obviously not motivated by science.

**Question:** Is there an increase in all-cause mortality in Americans under 65?

**Answer:** It appears that there is. Scott Davison, the CEO of Indiana-based insurance company OneAmerica, reported the death rate for 18- to 64-year-olds in the 3rd and 4th quarters of 2021 has risen **40% compared to before the pandemic**. Davison described a 10% increase in mortality as a 3-sigma (standard deviation) event, and 40% a **12-sigma event**. A three-sigma event should happen around once every 300 or so years and a six-sigma event should happen once every 300,000 or so years. Most of the claims for deaths being filed are not classified as COVID-19 deaths, Davison said.<sup>121</sup>

OneAmerica isn't the only one. Hartford Insurance Group, which announced mortality increased 32% from 2019 and 20% from 2020. Lincoln National also stated death claims have increased 13.7% year over year and 54% in quarter 4 compared to 2019. Unum Insurance is up 36%, Prudential plus 41%, Reinsurance Group of America plus 21%, Met Life plus 24%, and Aegon – which is a Dutch insurer – saw in their US arm plus 57% in the 4th quarter – in the 3rd quarter they saw a 258% increase in death claims.

**UPDATE: Canada saw a spike in death of 24% among the healthiest Canadians – those aged 0-44 – between July 31st and October 2nd, 2021. It's worth pointing out that Canadian Prime Minister Justin**

---

<sup>119</sup> "Vaccines and Omicron mean Covid now less deadly than flu in England", by John Burn-Murdoch and Oliver Barnes, Financial Times, March 10, 2022.

<sup>120</sup> Letter from Ethics and Public Policy Center to HHS Secretary Becerra, dated March 15, 2022.

<sup>121</sup> [https://www.kpcnews.com/news/state/article\\_a84c1842-472c-5071-95ac-4bda3124d1a2.html](https://www.kpcnews.com/news/state/article_a84c1842-472c-5071-95ac-4bda3124d1a2.html)





Trudeau mandated the vaccine for workers in August, lining up perfectly with the spike in excess deaths.<sup>122</sup>

**Question:** Are state governments doing anything to restrict vaccine mandates?

**Answer:** Some are. The latest is the state of Indiana. On March 3, 2022, Governor Holcomb signed into law House Bill 1001, which addresses employer vaccine mandates in Indiana. The new law was an emergency action that took effect immediately. It adds a required exemption for immunity, in addition to accommodations for medical and religious reasons. The law also limits an employer's ability to ask questions about an employee's exemption.<sup>123</sup>

While this list is fluid and therefore may not be complete, other states restricting vaccine mandates as of March 2022 include:

1. **Alabama Senate Bill 9, effective November 5, 2021** - the law prohibits employers from requiring any employee to receive a COVID-19 vaccination as a condition of employment unless the employee is provided the opportunity to be exempt from the vaccination for religious or medical reasons. "The employer shall evaluate the request and liberally construe the employee's eligibility for exemption in favor of the employee" and "[t]he submission of the completed form creates a presumption that the employee is entitled to the exemption." Notably, if an employee appeals an exemption denial, the law requires an employer to compensate that employee at his/her regular rate of compensation for either (1) 7 days after the denial was issued by the employer OR (2) if a request for review is made, until the administrative law judge issues a ruling in the employer's favor (no more than 30 additional calendar days). The guidelines state, "While the decision to keep an employee physically on the job during this period is at the discretion of the employer, compliance regarding compensation is mandatory." Also, if a request is denied, an employer cannot terminate an employee for failing to receive a vaccination for a period of 7 calendar days after the denial or, if a request for review was made, until the administrative law judge issues a ruling in the employer's favor.
2. **Arkansas Senate Bill 739/House Bill 1977, passed October 13, 2021; effective January 13, 2022** - Employers must provide a testing option instead of vaccination, and the law requires employers to accept proof of a prior COVID-19 infection or natural immunity/antibody test results as an exception to vaccination requirements.

---

<sup>122</sup> <https://www.thegatewaypundit.com/2022/04/not-just-us-excess-deaths-skyrocket-worldwide-2021-following-rollout-experimental-covid-vaccine/>

<sup>123</sup> [https://www.icemiller.com/ice-on-fire-insights/publications/limitations-on-covid-19-vaccine-mandates-in-indian/?utm\\_source=Mondaq&utm\\_medium=syndication&utm\\_campaign=LinkedIn-integration](https://www.icemiller.com/ice-on-fire-insights/publications/limitations-on-covid-19-vaccine-mandates-in-indian/?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration)



3. **Florida HB-1B, signed November 18, 2021** - a private employer may not impose a COVID-19 mandate without providing individual exemptions allowing an employee to “opt out”. To effect such an opt-out, an employee need only provide the employer with a completed “exemption statement.” The law expressly states employers must allow an employer to opt out – not simply consider a request to opt out. These are the five permissible opt-out reasons: Medical Reason provided by Medical Professional, Religious Reason, Covid-19 Natural Immunity, Periodic Testing or Use of Employer-Provided PPE.
4. **Montana HB 702, effective May 7, 2021**- Prohibits discrimination based on an individual’s vaccination status. It prohibits an employer from refusing employment, barring a person from employment, or discriminating in any term, condition, or privilege of employment based on vaccination status or whether the person has an immunity passport.
5. **Tennessee Senate Bill No. 14, effective November 10, 2021** - Private Employers, governmental entities, and schools are prohibited from requiring proof of COVID-19 vaccination or taking adverse action against an employee or applicant for refusing to provide proof of vaccination if the employee or applicant objects to vaccination for any reason. Additionally, by allowing employees to object to vaccination for any reason, which may include political or moral objections, the law expands an employee’s bases to object to vaccination beyond federal accommodation requirements.
6. **Texas Executive Order No. GA-40, effective October 11, 2021** - No entity can compel receipt of a COVID-19 vaccine by any individual, including an employee or a consumer, who objects to such vaccination for any reason of personal conscience, based on a religious belief, or for medical reasons, including prior recovery from COVID-19.
7. **Utah S.B. 2004, signed November 16, 2021** - requires employers to relieve an employee from a COVID-19 vaccination requirement/mandate under certain conditions: (1) if receiving the vaccine would be injurious to the health and wellbeing of the employee or prospective employee; (2) if receiving the vaccine would conflict with a sincerely held religious belief, practice, or observance of the employee or prospective employee; or (3) if receiving the vaccine would conflict with a “sincerely held personal belief” of the employee or prospective employee.
8. **West Virginia House Bill (HB) 335, signed October 22, 2021** - An eligible employee or prospective employee is exempted from having to comply with a COVID-19 vaccination mandate of a covered employer as a condition of continued employment or hire by presenting: (1) a notarized certification executed by a licensed physician or advanced practice registered nurse stating that a medical exemption is required due to the individual’s physical condition or a specific precaution or because the individual has COVID-19 antibodies from a previous infection or has recovered from COVID-19; or (2) a notarized certification executed by the individual stating that he or she holds religious beliefs that prevent him or her from taking the COVID-19 vaccination. Once provided with such a



certification, a covered employer “shall not be permitted to penalize or discriminate against [the] current or prospective employee[] ... by practices including, but not limited to, benefits decisions, hiring, firing, or withholding bonuses, pay raises, or promotions.”

### **In closing-**

The Pacific Justice Institute is not anti-vaccination, it is pro-freedom. Undoubtedly the COVID-19 vaccines have served portions of the American population very well, and have saved lives. We commend those who have worked tirelessly since the outbreak of the pandemic to make those vaccines available in record time.

However, because they have been approved only under the Emergency Use Authorization, they should not be mandated on any American. Further, even if one or more vaccines receive full FDA approval, Americans should have the right to assess their own risk and make informed decisions as to whether or not they want to be vaccinated.

There is risk involved in nearly everything we do in life. We as free citizens assess that risk and act accordingly. This nation was brought forth by people who took the great risk of traveling across the Atlantic Ocean to come to the New World. The United States of America was founded by people who decided to take the risk of going to war with the world’s only superpower to become a free nation. The western part of our nation was settled by people who took the risk to travel across the wilderness by horse and buggy.

As previously stated, the odds of survival when contracting COVID-19, even if untreated, for healthy people under the age of 50 is 99.98% or higher<sup>124</sup>. American citizens should have the right to examine that risk and decide whether or not a vaccination is right for them. They should not be forced in either direction by their government, nor should they become another class of citizen based on the decision they make.

---

<sup>124</sup> TEN MEDICAL FACTS REGARDING THE COVID-19 EXPERIMENTAL VACCINES, Dr. Shelley Cole, Medical Director AFLDS, dated April 12, 2021.