

Congress of the United States
Washington, DC 20515

April 24, 2023

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Secretary Becerra and Administrator Brooks-LaSure,

We write to request that the COVID-19 vaccination requirements put in place by the Centers for Medicare and Medicaid Services (CMS) for healthcare workers be repealed in conjunction with the end of the COVID-19 public health emergency scheduled by your Administration for May 11, 2023.

On January 13, 2022, the Supreme Court blocked the COVID-19 vaccine mandate put in place by the Occupational Safety and Health Administration (OSHA).¹ The COVID-19 vaccine mandate on federal contractors continues to be under scrutiny, most recently being blocked by the U.S. Court of Appeals for the Fifth Circuit in Louisiana² and by the U.S. Court of Appeals for the Sixth Circuit in Ohio.³ These rulings reinforce that the government does not have the authority to dictate an individual's COVID-19 vaccination status, and this should extend to America's healthcare workers.

Moreover, the healthcare sector continues to face tremendous workforce challenges. Specifically, long-term care facilities have lost 307,000 jobs over the course of the pandemic and nursing home staff are not expected to return to pre-pandemic levels until 2027.⁴ At a time when we are working as a nation to heal from the COVID-19 pandemic, the COVID-19 vaccine mandate on our healthcare workers continues to exacerbate health care staffing shortages and jeopardize patient access to quality care, especially in rural and underserved parts of the country.

The Department of Health and Human Services announced the federal Public Health Emergency (PHE) for COVID-19, as declared under section 319 of the Public Health Services (PHS) Act, is set to expire on May 11, 2023.⁵ However, the COVID-19 vaccine mandate for healthcare workers is not affected by the PHE and will remain in place under the current rule put forth by

¹ https://www.supremecourt.gov/opinions/21pdf/21a244_hgci.pdf

² <https://news.bloomberglaw.com/daily-labor-report/fifth-circuit-blocks-bidens-federal-contractor-vaccine-mandate>

³ <https://news.bloomberglaw.com/daily-labor-report/biden-federal-contractor-vaccine-order-blocked-by-sixth-circuit>

⁴ <https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/LTC-Jobs-Report-Jan2023.pdf>

⁵ Notice on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic, February 10, 2023, <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/10/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic-3/>.

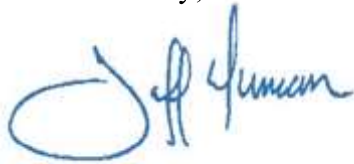
CMS, “Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination.”⁶
This CMS rule is not set to expire until November 2024.⁷

At the beginning of this year, H.R. 497, the Freedom for Healthcare Workers Act, was introduced. This legislation would repeal this CMS rule and nullify the COVID-19 vaccine mandate on our healthcare workers and passed the House with bipartisan support.⁸ We believe no one should be forced to choose between getting the COVID-19 shot or losing their livelihood – especially those that have been on the frontline since the beginning of the pandemic.

On April 10, 2023, President Biden signed into law H.J.Res. 7, which ends the COVID-19 national emergency.⁹ This resolution passed the House and the Senate with strong bipartisan support.¹⁰¹¹ We believe that ending these emergency powers is only the first step for returning to normalcy post-pandemic. We are hopeful that ending the national emergency is followed by the swift termination of draconian policies on our healthcare system, specifically the end of the COVID-19 vaccine mandate.

We strongly urge you to repeal this authoritarian rule that forces healthcare workers to get the COVID-19 vaccine in order to keep their job. We believe this was misguided, un-American policy from the beginning.

Sincerely,



JEFF DUNCAN
Member of Congress



VERN BUCHANAN
Member of Congress



JIM BANKS
Member of Congress



ANNA PAULINA LUNA
Member of Congress

⁶ Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination, November 5, 2021, <https://www.federalregister.gov/documents/2021/11/05/2021-23831/medicare-and-medicare-programs-omnibus-covid-19-health-care-staff-vaccination>

⁷ Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination, November 5, 2021, <https://www.federalregister.gov/documents/2021/11/05/2021-23831/medicare-and-medicare-programs-omnibus-covid-19-health-care-staff-vaccination>

⁸ <https://clerk.house.gov/Votes/202398>

⁹ <https://www.whitehouse.gov/briefing-room/legislation/2023/04/10/bill-signed-h-j-res-7/>

¹⁰ <https://clerk.house.gov/Votes/2023104>

¹¹ https://www.senate.gov/legislative/LIS/roll_call_votes/vote1181/vote_118_1_00080.htm

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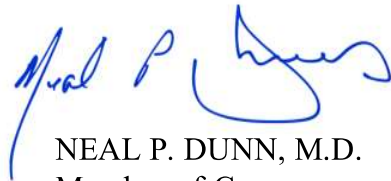
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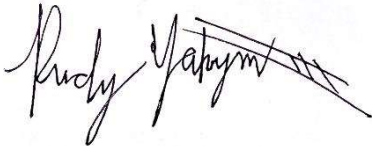
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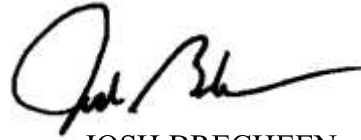
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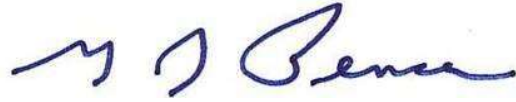
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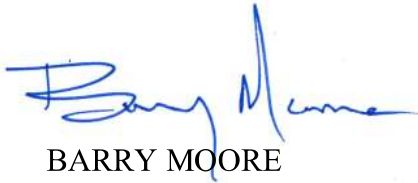
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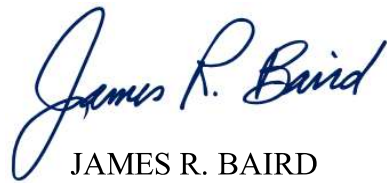
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