

BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN
ORDINANCE DATED _____, 20__
ORDINANCE NUMBER _____

WHEREAS, the federal government is attempting to impose unconstitutional mandates on American citizens and businesses, by compelling management, and implementing exuberant punitive fines for any company, of a certain size, that refuses to comply, resulting in the infringement of employee rights through coercion; and

WHEREAS, the government's main role is to protect individual constitutional rights. Under this Republic or rule of law, the Constitution explicitly prohibits others (including the government) from infringing on the God-given individual rights of the citizenry and instructs government to act if those rights are infringed; and

WHEREAS, the Indiana General Assembly has not ruled on the attestation of immunization status as a condition of employment by private businesses, but rather addressed the use of immunization passports by state and local government entities. Pursuant to IC 36-1-3 Home Rule, under 36-1-3-3 and 36-1-3-4, "Any doubt as to the existence of a power of a unit shall be resolved in favor of its existence." In addition to the powers granted under a specific statute, home rule gives a county, city, or town, "all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute." The county government is within its power to provide legislation on this issue; and

WHEREAS, the Allen County Commissioners recognize concerns that attestation of immunization status, immunization passports and vaccine mandates could create, including concerns associated with civil liberties, personal health information, religious freedom, and possible discrimination of protected classes of individuals; and

WHEREAS, attestation of immunization status and the use of immunization passports by businesses will unduly and unnecessarily restrict freedom of citizens, by prohibiting access, entrance, commerce, or employment upon specific persons in our community. Furthermore, it is unreasonable to require a person to disclose the status of his or her immunization for employment, education, access to events, or engagement in normal commercial and recreational activities. Citizens of Allen County have the constitutional right to freely make their own medical decisions without being restricted from participation in societal activities and employment; and

WHEREAS, immunization mandates imposed by the federal government with punitive measures may result in undue hardship for businesses. Indiana has a vaccination rate of around 55.4%. Many of the unvaccinated have no intent on receiving the vaccine. Staunch opposition coupled with mandates may result in a loss of morale or worse, a significant rise in the number of vacancies. Currently, the lack of employees is crippling some businesses and further losses may result in lost productivity or permanent closures.

WHEREAS, attestation of immunization status for employment or any other purpose will harm individual privacy, requiring citizens to report specific and personal information, which is entirely inappropriate and unnecessary for access, entrance, commerce, or employment in our county. If used by employers, this could result in a hostile work environment, a situation where other employees are aware of an individual's personal health choices, and the perpetuation of divisiveness related to covid. Private health information on immunization status should not be required by any government or business; and

WHEREAS, attestation of immunization status, immunization passports, and vaccine mandates will have a negative financial and societal impact upon individuals of various religious convictions, underlying medical conditions, and those who oppose vaccinations for other personal reasons. These mandates would essentially create a two-tiered society (the vaccinated and the unvaccinated) driving a wedge between our citizens and ostracizing one group of people based on their personal medical decisions; and

WHEREAS, implementation of an immunization passport system or enforcement of immunization mandates, could be manipulated to restrict freedom based on not just immunization status, but also on the basis of protected activity (such as the exercise of free speech or religious activity), protected categories (race, ethnicity, gender, disability, etc.) or any personal decision or preference that a government or business considers acceptable; and

WHEREAS, this ordinance is not to suggest that vaccines should or should not be received by any individual. Instead, this ordinance is in support of individual liberty and freedom of choice [to accept or decline]. Every adult who wants a vaccine has the right to obtain one and the ability to do so, as they are widely available, but no vaccine should be mandated or required by law or forced by threat of job loss; and

WHEREAS, people have the right to refuse vaccinations based on religious, medical, or personal reasons, and every medical intervention requires informed consent and the right of refusal, including the Covid-19 vaccine; and

WHEREAS, In Indiana, the requirement to obtain informed consent is imposed by statute. Indiana Code Sec. 34-18-12-3 requires Indiana healthcare providers to obtain their patient's "informed consent" in writing before any "treatment, procedure, test, or examination" is performed. The healthcare provider is required to provide the patient a complete and thorough description of the treatment being offered, the risks and benefits of the proposed treatment, and all reasonable alternatives to the proposed treatment. Informed Consent means an individual made a voluntary and educated decision, without coercion.

1.) With regard to the Covid-19 vaccines:

(A) as they are still in clinical trials, not all are **fully** approved by the FDA, and given under EUA (Emergency Use Authorization- can only be administered during a public health emergency, under a declared state of emergency), ingredients and side-effects are unknown by healthcare providers; **despite being**

fully approved, even Comirnaty (FDA approved, but not available) does not have long term data available to truly understand the potential risk; and

(B) subsequently, a thorough description cannot be given to the patient, and healthcare providers are unable to obtain informed consent. *Ethically healthcare providers are not to witness a consent by a patient they feel is under coercion of any kind. Employees threatened with termination are certainly being coerced,* and;

(C) individuals receiving these vaccines, which will remain in clinical trials until 2023 and 2024, depending on the manufacturer, are taking the same risk as those in clinical trials WITHOUT being followed up on. Subsequently individuals who face complications must autonomously report to the Vaccine Adverse Event Reporting System (VAERS) and advocate for themselves. Unfortunately, this leaves a large margin of error for appropriate reporting, follow-up, and treatment. Further, the VAERS is a significantly flawed passive reporting system in which many practitioners are unfamiliar or worse completely unaware of; and

WHEREAS, the right to refuse treatment goes hand in hand with the right to informed consent. Every competent adult, or the guardian of a minor has the right to refuse unwanted medical treatment. When a patient has been sufficiently informed about the treatment options offered by a healthcare provider, the patient has the right to accept or refuse treatment. This is part of the right of every individual to choose what will be done to their own body, and it applies even when refusing treatment means that the person may die. It is unethical to physically force or coerce a patient into treatment against his will if he is of sound mind and is mentally capable of making an informed decision; and

WHEREAS, the FDA also requires Informed Consent for research and clinical trials. These requirements are set forth in FDA's regulations on Protection of Human Subjects and informs participants about the trial and lets them make educated decisions about taking part in the study. The process is similar to informed consent in healthcare. In a research setting, it involves discussing the purpose and procedure of the study, relevant information about the study, including risks and benefits, the participants ability to understand this information, providing adequate opportunity to ask questions and to consider whether to participate, obtaining the potential subject's voluntary agreement to participate in the study, and continuing to provide information as the clinical investigation progresses or as the subject or situation requires. **Informed consent is required for participation in FDA-regulated clinical investigations except under limited circumstances as described in 21 CFR 50.23 (involving certain life-threatening situations, military operations, or public health emergencies); and**

WHEREAS, the conditions under which informed consent is sought and the relationship between the subject and the person obtaining consent must be carefully considered to minimize the possibility of coercion or undue influence (21 CFR 50.20). According to the Belmont Report, "Coercion occurs when an overt threat of harm is intentionally presented by one person to another in order to obtain compliance. Undue influence, by contrast, occurs through an offer of an excessive, unwarranted, inappropriate or improper reward or other overture in order to obtain compliance."

With respect to Covid-19 vaccines being considered a condition of employment, while still in ongoing trials, and the data to make an informed decision is lacking, the employee should have the right to refuse, free of coercion, including loss of employment. As a result of the employer asking the employee to assume the same risks as those participating in clinical trials, without the medical oversight, this would be comparable to the following example and should abide by the same FDA established guidelines.

When an employing party seeks to enroll employees in a clinical investigation sponsored or conducted by the employing party, the protocol should contain safeguards to ensure that participation is voluntary and that there is no undue influence by supervisors, peers, or others. Similarly, because of a potential conflict of interest and the nature of the physician-patient relationship, when the investigator is also the prospective subject's physician, the physician should be careful to ensure that the prospective subject understands that enrollment in the clinical investigation is voluntary and that a decision to forego enrollment will not adversely affect his/her medical care. The consent form should emphasize that an individual's participation is truly voluntary. *A statement that participation is voluntary, that refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.* (21 CFR 50.25(a)(8).); and

WHEREAS, the Covid-19 vaccines use new mRNA technology and are not technically “traditional” immunizations, but rather “new” or experimental gene therapy. These are not tested and authorized vaccines but rather, are still being studied and remain in human clinical trials until 2023 and 2024, which fits the Nuremberg Code definition of “Human Experimentation” being performed without consent of the participant, according to (21 CFR 50.23). Informed consent has been the gold standard in medical practice ever since the Nuremberg Code was passed after World War II. There should be no exception for an experimental vaccination, developed at “Warp Speed” without adequate time for the proper long-term studies for safety and effectiveness to take place. Individuals receiving the Covid-19 “vaccine” are not being informed that they are taking the same risk as those participating in a clinical trial. The Nuremberg Code addresses 10 points when engaging in human experiments.

1. The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, **without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion;** and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonable to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment. The duty and responsibility for ascertaining the quality of the consent rests

upon each individual who initiates, directs or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

2. The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.

3. The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study that the anticipated results will justify the performance of the experiment. (Animal Trials for Covid-19 vaccine (gene therapy) were skipped)

4. The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.

5. No experiment should be conducted where there is a prior reason to believe that death or **disabling injury will occur**; except, perhaps, in those experiments where the experimental physicians also serve as subjects.

6. The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.

7. Proper preparations should be made, and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.

8. The experiment should be conducted only by scientifically qualified persons. The highest degree of skill and care should be required through all stages of the experiment of those who conduct or engage in the experiment.

9. During the course of the experiment the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible.

10. During the course of the experiment the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill and careful judgment required of him that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject; and

WHEREAS, freedom of religion in the First Amendment, the Human Rights Act, the Civil Rights Act of 1964, and the Americans with Disability Act of 1990 protect constitutional rights and serve to ensure discrimination and segregation have no place in our society. We must address the growing problem that will result with the use of immunization passports, which will give rise to a new type of segregation, the Vaccinated and the Unvaccinated. Additionally, the Civil Rights Act forbade the use of federal funds for any discriminatory program, which the federal government is in direct violation of; and

WHEREAS, in accordance with the Indiana State Constitution and the Civil Rights Act of 1964, citizens have legal grounds to use Religious Exemptions, if said immunizations conflict with their deeply held religious beliefs. Article 1. Section 3 of the Indiana Constitution states: **No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.** This establishes Freedom of Religious Opinions. Additionally, Pursuant to IC 20-34-3 religious exemptions must be accepted by educational institutions. Public Law 88-352 (78 Stat. 241), of the Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex, or national origin. Provisions of this civil rights act forbade discrimination based on sex, as well as race in hiring, promoting, and firing. Furthermore, employers are required to reasonably accommodate religious observance and practice, absent undue hardship. Employers are also prohibited from disclosing accommodations made for an employee or retaliating against the employee for seeking accommodation; and

WHEREAS, employers cannot legally inquire about an employee or prospective employee's medical status related to HIV, hepatitis or other health issues, which put their co-workers at risk.

WHEREAS, numerous other governmental units are opposing immunization passports, including the decision by the Indiana General Assembly to ban them in HEA 1405, codified as IC 16-36-11-5 identifies an "immunization passport" as any written, electronic, or printed information regarding whether an individual has or has not received a vaccine to produce immunity; and

WHEREAS, the Allen County Board of Commissioners opposes attestation of immunization status, immunization passports, vaccine mandates and any other similar governmental requirements that disenfranchise local citizens of the right to make their own health care choices and move freely within society. All adults should have the freedom to evaluate science and seek out appropriate medical opinions, while making decisions for themselves and their families. To ensure that businesses are not put in a position where they are forced to infringe on their employees' rights, or risk further workforce shortages, productivity and profit losses as a result, which will result in permanent closures of small businesses and a detrimental effect on our economy; and

NOW, THEREFORE, be it ordained that: in order to protect workers rights to bodily autonomy and privacy by keeping their employers and the government out of their personal medical decisions, and also protecting business interests, while enforcing laws already in existence pursuant to employment conditions.

Section 1. An employer may not:

- (1) require, as a condition of employment, that an employee or prospective employee receive any immunization; or
- (2) discriminate against an employee with respect to:
 - (A) an employee's tenure, compensation, and benefits: or
 - (B) terms, conditions, and privileges of employment; for failing to

receive any immunization; if the immunization is medically contraindicated for the employee or prospective employee, or if receiving the immunization is against the employee's or prospective employee's religious beliefs or conscience.

(3) require testing of asymptomatic employees:

(A) no preferential treatment, based on immunization status, shall be given (vaccinated = not tested, unvaccinated = tested)

(B) testing must be conducting universally

Section 2. An employer may be held liable:

(1) when requiring an immunization as a condition for employment, if;

(A) the immunization administered causes injury, life-long health issues, or death to the employee; or

(B) the employer did not make the employee aware of the ability to utilize religious or medical exemption. The employer should generally assume that the religious exemption is sincere in nature- from EEOC; or

(C) an employee or prospective employee are coerced in any way;

Section 3. (a) An employee (or minor employee's guardian) or prospective employee may bring civil action against an employer to enforce section 1 of this ordinance.

(b) An employee (or minor employee's guardian) or their family may bring civil action against an employer to enforce section 2 of this ordinance.

(c) If an employer violates section 1 or section 2 of this chapter, the court may do the following:

(1) Award:

(A) actual damages;

(B) punitive damages; and

(C) court costs and reasonable attorney's fees; to the prevailing employee or prospective employee

Section 4. This Ordinance shall become effective as of the date of passage.

Passed this _____ day of _____, 20__.

THE BOARD OF COMMISSIONERS OF
THE COUNTY OF ALLEN

Richard E. Beck

Therese M. Brown

F. Nelson Peters

ATTEST:

Chris Cloud, Deputy Auditor