

**INVOCATION OF RIGHTS UNDER THE
AMERICANS WITH DISABILITIES ACT (as Amended)
CONFIDENTIAL UNDER 29 C.F.R. §1630.14(c)(1)**

As an employee of _____ (“Employer”) I am disclosing that I am regarded as disabled under the Americans with Disabilities Act. I hereby invoke the protection of the Americans with Disabilities Act of 1990, and the ADA Amendments Act 2008, and any corresponding protections under the Rehabilitation Act of 1973. **In an attempt to avoid being deemed “non-compliant” or “unfit for service”. I assert the following:**

1. I have a disability substantially limits more than one major life activity.
2. My disability is my Employer’s COVID-19 vaccination (“vaccine”) mandate (“mandate”) and my Employer’s implementation of that mandate, and how it specifically has affected and continues to affect me.
3. My Employer’s vaccine mandate requires me to take a COVID-19 vaccine and this requirement is accompanied by a coercive and intimidating threat that I will be terminated if I do not take the vaccine, yet there is only one FA approved COVID-19 vaccine – COMIRNATY™.
4. My Employer’s vaccine mandate implementation uses [check all that apply]
 intimidation
 harassment; (repeated events of coercion, threats, or intimidation)
 coercion
 threats; and/or
 interference with my rights under the ADA. (of fully informed consent concerning medicine requirements as a mitigation)
5. I have expressed opposition, and/or now express opposition to the mandate, which I consider to be unlawful because it forces me to take a vaccine that **my Employer has not fully and completely disclosed and certified the following information in entirety:**
 where, **specifically**, one may obtain the FDA approved COMIRNATY™ vaccine; and/or
 a complete list of my certain and absolute risks in taking the vaccine; and/or
 any certain and absolute benefits that the vaccine is **guaranteed** to provide me; and/or
 whether or not my Employer has classified my immune system as naturally deficient in providing defense against COVID-19 (any variant); and/or
 If my Employer has classified my immune system as naturally deficient in providing defense against COVID-19, I have not received any certified information on how my employer decided that my immune system was naturally deficient in this way; and/or
 whether or not my Employer has an insurable risk in providing me health insurance coverage, and if so, whether that insurable risk covers any injuries or harms I may receive from the vaccine; and/or
 If I have had COVID-19, my Employer has not provided me with any information that details how the vaccine will affect, either negatively or positively, my naturally developed immune response; and/or
 If I am injured by the vaccine, whether or not my Employer assumes any liability or provides any insurance coverage for any and all injuries I may sustain by receiving the vaccine.
6. I demand that my Employer cease and desist in the actions prohibited under 42 U.S.C §12203 (a) & (b) and 29 CFR §1630.12 (a) & (b), including coercion, intimidation, threats, harassment, or interference with my ADA rights.
7. I demand that my Employer give me full disclosure on the foregoing items listed above, so that I may regain my ability to enjoy my ADA rights free from coercion, intimidation, threats, harassment or interference.
8. **I demand that my employer inform me, along with the other withheld information that allows my full and informed consent, to immediately reveal to me the specific place that is local to me where the FDA Approved COMIRNATY™ vaccine is available, and the full and complete list of ingredients of the COMIRNATY™ vaccine.**
9. This is a protected activity under 29 CFR §1630.12(a) & (b).

Please provide me equal access to my ADA rights as stated herein, and respond timely in writing. I trust that my efforts to remain in good faith are reciprocated by my Employer.

Employee Name: _____

Employee Signature: _____

Date: _____

Without Prejudice UCC (1-308)



LII > Electronic Code of Federal Regulations (e-CFR) > Title 29 - Labor
> Subtitle B - Regulations Relating to Labor
> CHAPTER XIV - EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
> PART 1630 - REGULATIONS TO IMPLEMENT THE EQUAL EMPLOYMENT PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT
> § 1630.14 Medical examinations and inquiries specifically permitted.

29 CFR § 1630.14 - Medical examinations and inquiries specifically permitted.

CFR Table of Popular Names

§ 1630.14 Medical examinations and inquiries specifically permitted.

(a) *Acceptable pre-employment inquiry.* A covered entity may make pre-employment inquiries into the ability of an applicant to perform job-related functions, and/or may ask an applicant to describe or to demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions.

(b) *Employment entrance examination.* A covered entity may require a medical examination (and/or inquiry) after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, and may condition an offer of employment on the results of such examination (and/or inquiry), if all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

(1) Information obtained under paragraph (b) of this section regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and be treated

as a confidential medical record, except that:

(i) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) Government officials investigating compliance with this part shall be provided relevant information on request.

(2) The results of such examination shall not be used for any purpose inconsistent with this part.

(3) Medical examinations conducted in accordance with this section do not have to be job-related and consistent with business necessity. However, if certain criteria are used to screen out an employee or employees with disabilities as a result of such an examination or inquiry, the exclusionary criteria must be job-related and consistent with business necessity, and performance of the essential job functions cannot be accomplished with reasonable accommodation as required in this part.

(See § 1630.15(b) Defenses to charges of discriminatory application of selection criteria.)

(c) Examination of employees. A covered entity may require a medical examination (and/or inquiry) of an employee that is job-related and consistent with business necessity. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(1) Information obtained under paragraph (c) of this section regarding the medical condition or history of any employee shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record, except that:

(i) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) Government officials investigating compliance with this part shall be provided relevant information on request.

(2) Information obtained under paragraph (c) of this section regarding the medical condition or history of any employee shall not be used for any purpose inconsistent with this part.

(d) *Other acceptable examinations and inquiries* A covered entity may conduct voluntary medical examinations and activities, including voluntary medical histories, which are part of an employee health program available to employees at the worksite.

(1) *Employee health program.* An employee health program, including any disability-related inquiries or medical examinations that are part of such program, must be reasonably designed to promote health or prevent disease. A program satisfies this standard if it has a reasonable chance of improving the health of, or preventing disease in, participating employees, and it is not overly burdensome, is not a subterfuge for violating the ADA or other laws prohibiting employment discrimination, and is not highly suspect in the method chosen to promote health or prevent disease. A program consisting of a measurement, test, screening, or collection of health-related information without providing results, follow-up information, or advice designed to improve the health of participating employees is not reasonably designed to promote health or prevent disease, unless the collected information actually is used to design a program that addresses at least a subset of the conditions identified. A program also is not reasonably designed if it exists mainly to shift costs from the covered entity to targeted employees based on their health or simply to give an employer information to estimate future health care costs. Whether an employee health program is reasonably designed to promote health or prevent disease is evaluated in light of all the relevant facts and circumstances.

(2) *Voluntary.* An employee health program that includes disability-related inquiries or medical examinations (including disability-related inquiries or medical examinations that are part of a health risk assessment) is voluntary as long as a covered entity:

(i) Does not require employees to participate;

(ii) Does not deny coverage under any of its group health plans or particular benefits packages within a group health plan for non-participation, or limit the extent of benefits (except as allowed under paragraph (d)(3) of this section) for employees who do not participate;

(iii) Does not take any adverse employment action or retaliate against, interfere with, coerce, intimidate, or threaten employees within the meaning of Section 503 of the ADA, codified at 42 U.S.C. 12203; and

(iv) Provides employees with a notice that:

(A) Is written so that the employee from whom medical information is being obtained is reasonably likely to understand it;

(B) Describes the type of medical information that will be obtained and the specific purposes for which the medical information will be used; and

(C) Describes the restrictions on the disclosure of the employee's medical information, the employer representatives or other parties with whom the information will be shared, and the methods that the covered entity will use to ensure that medical information is not improperly disclosed (including whether it complies with the measures set forth in the HIPAA regulations codified at 45 CFR parts 160 and 164).

(3) [Reserved]

(4)

(i) Confidentiality. Information obtained under paragraph (d) of this section regarding the medical condition or history of any employee shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record, except that:

(A) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(B) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(C) Government officials investigating compliance with this part shall be provided relevant information on request.

(ii) Information obtained under paragraph (d) of this section regarding the medical condition or history of any employee shall not be used for any purpose inconsistent with this part.

(iii) Except as permitted under paragraph (d)(4)(i) of this section and as is necessary to administer the health plan, information obtained under this paragraph (d) regarding the medical information or history of

any individual may only be provided to an ADA covered entity in aggregate terms that do not disclose, or are not reasonably likely to disclose, the identity of any employee.

(iv) A covered entity shall not require an employee to agree to the sale, exchange, sharing, transfer, or other disclosure of medical information (except to the extent permitted by this part to carry out specific activities related to the wellness program), or to waive any confidentiality protections in this part as a condition for participating in a wellness program or for earning any incentive the covered entity offers in connection with such a program.

(5) Compliance with the requirements of this paragraph (d), including the limit on incentives under the ADA, does not relieve a covered entity from the obligation to comply in all respects with the nondiscrimination provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., the Equal Pay Act of 1963, 29 U.S.C. 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 et seq., Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff, et seq., or other sections of Title I of the ADA.

(6) The “safe harbor” provisions in § 1630.16(f) of this part applicable to health insurance, life insurance, and other benefit plans do not apply to wellness programs, even if such plans are part of a covered entity's health plan.

[56 FR35734, July 26, 1991, as amended at 81 FR1139, My 17, 2016; 83 FR65296, Dec. 20, 2018]

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- > § 1630.12 Retaliation and coercion.

29 CFR § 1630.12 - Retaliation and coercion.

CFR

§ 1630.12 Retaliation and coercion.

(a) Retaliation. It is unlawful to discriminate against any individual because that individual has opposed any act or practice made unlawful by this part or because that individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing to enforce any provision contained in this part.

(b) Coercion interference or intimidation. It is unlawful to coerce, intimidate, threaten, harass or interfere with any individual in the exercise or enjoyment of, or because that individual aided or encouraged any other individual in the exercise of, any right granted or protected by this part.

42 U.S. Code § 12203 Prohibition against retaliation Prohibition against retaliation and coercion

U.S. Code Notes

(a) Retaliation

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

(b) Interference, Coercion, or Intimidation

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

(c) Remedies and Procedures

The remedies and procedures available under sections 12117, 12133, and 12188 of this title shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to subchapter I, subchapter II and subchapter III, respectively.