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Scotts Miracle-Gro Company
14111 Scottslawn Rd.
Marysville, OH 43041

An Open Letter re: Your flu vaccine requirement and $1,000 offer

Dear Jim Hagedorn, Mike Lukemire, Denise Stump, Randy Coleman, Jim King, and Ivan Smith:

On September 24, 2020, you notified your US associates that you were requiring them to submit to a medical intervention— a flu shot— paying $1,000 to those who complied.

Your requirement and offer neither reflects the growing body of science on flu vaccination nor the human right to fully informed medical consent in the absence of fraud or coercion.

What would lead you to make this decision? We note that Mr. Hagedorn, Chairman and CEO, is a former board member of the CDC Foundation. Has Scotts Miracle-Gro entered an agreement to use its employees as test subjects in a vaccination incentive program, with the goal of assessing its utility for any future release of a COVID19 vaccine, as proposed by Robert Litan of the Brookings Institute[1]? Or is there some other financial incentive? Insurance related? Tax related? Quid pro quo?

Nothing in your public statements and issued letter provides adequate information for fully informed consent to be given, and the flu stats mentioned were inaccurate[2]. When exemptions are only available at the discretion of the company, informed consent is impossible. It doesn't matter what any vaccine-administrator may tell your associates; it is Scott's that is forcing the choice between getting a shot and keeping a job. The legality of such may be debated, but it clearly violates several human rights declarations and federal regulations.

From the 1949 Nuremberg Code, Article 1[3]:

> "**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, over-reaching, 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.**

From the 2005 UNESCO Universal Declaration on Bioethics and Human Rights, Article 6[4]:

> "Any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate information. The consent should, where appropriate, be express and may be withdrawn by the person concerned at any time and for any reason **without disadvantage or prejudice**."

All vaccination of the general public with licensed vaccine products is experimental. All vaccines come with risks, the majority of which are not discovered until “Phase 4” post-marketing studies begin. Most of the studies conducted on vaccine safety rely on post-marketing surveillance using weak “association studies” with data from passively collected sources (such as VAERS, the Vaccine Adverse Event Reporting System).

Individuals, and your associates/employees, are not informed that by consenting to vaccination by choice, fear of job loss, or financial enticement, that they are participating in large, non-randomized retrospective clinical trials. In other words, members of the general public serve as unwitting test subjects. This practice is widespread, and violates provisions of the National Research Act as well as the US *Common Federal Policy for the Protection of Human Subjects* ("Common Rule”)[5]:

> “Except as provided elsewhere in this policy, no investigator may involve a human being as a subject in research covered by this policy unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that **minimize the possibility of coercion or undue influence.**”

If you are also using your employees to study the effectiveness of $1000 offers, then they are participating in an additional study without giving informed consent.

The 1986 National Childhood Vaccine Injury Act[6] shields vaccine makers and those who administer them from liability for injury or death due to the administration of a certain vaccines given to children and adults. In 1986, Congress understood that vaccine products come with risks. They were not to be administered without due caution, necessity, or proper consent. There has been much independent post-marketing research on flu vaccination with concerning conclusions, and we append a copy of a recent letter from the Physicians for Informed Consent opposing the University of California’s President's flu vaccine mandate. We also recommend an article by Jim Meehan, MD, entitled “The Flu Vaccine is Bad Medicine[7]” and also consider that a new study[8] and a global analysis[9] revealed a possible correlation between flu shot coverage and COVID-19 mortality.

According to FDA regulations, reported adverse reactions plausibly caused by vaccine products must be included on product inserts.[10] In what must be one of the worst regulatory oversights, reporting is required but investigation is not. Flu vaccine injuries have the dubious honor of being the most compensated by the Vaccine Injury Compensation Program.

We are writing to ask you to drop your flu vaccine requirement and to rescind your offer as it now stands. In order to provide non-coercive and equitable incentive to all your associates to take steps to improve their health and immune resilience this flu season, we suggest you provide them all with $1,000 to spend on personal health choices. Such a sum could provide the ability to make healthier choices at the grocery store, purchase essential nutrients such as Vitamins C and D, or join a gym to begin an exercise program. You may find their choices benefit their overall health, and therefore the health of their work environment, far more than a coerced pharmaceutical intervention. And you would not be in violation of human rights.

Sincerely,

Bernadette Pajer
ICWA Public Policy Director

END NOTES

The original language of the 1986 Act required the following information be given to prospective recipients or their parents/guardians:

> (1) the frequency, severity, and potential long-term effects of the disease to be prevented by the vaccine,
> (2) the symptoms or reactions to the vaccine which, if they occur, should be brought to the immediate attention of the health care provider,
> (3) precautionary measures legal representatives should take to reduce the risk of any major adverse reactions to the vaccine that may occur,
> (4) early warning signs or symptoms to which legal representatives should be alert as possible precursors to such major adverse reactions,
> (5) a description of the manner in which legal representatives should monitor such major adverse reactions, including a form on which reactions can be recorded to assist legal representatives in reporting information to appropriate authorities,
> (6) a specification of when, how, and to whom legal representatives should report any major adverse reaction,
> (7) the contraindications to (and bases for delay of) the administration of the vaccine
> (8) an identification of the groups, categories, or characteristics of potential recipients of the vaccine who may be at significantly higher risk of major adverse reaction to the vaccine than the general population

[1] https://www.brookings.edu/opinions/want-herd-immunity-pay-people-to-take-the-vaccine/

[2] "In the last six flu seasons, the CDC's reported number of actual confirmed flu deaths—that is, counting flu deaths the way we are currently counting deaths from the coronavirus—has ranged from 3,448 to 15,620, which [are] far lower than the numbers commonly repeated by public officials and even public health experts. . . . there are little data to support the CDC's assumption that the number of people who die of flu each year is on average six times greater than the number of flu deaths that are actually confirmed. In fact, in the fine print, the CDC's flu numbers also include pneumonia deaths. The CDC should immediately change how it reports flu deaths." https://blogs.scientificamerican.com/observations/comparing-covid-19-deaths-to-flu-deaths-is-like-comparing-apples-to-oranges/

COVID-19 death data are also misleading. CDC changed reporting guidelines in March 2020, creating another apples-to-oranges situation. See https://youtu.be/twl06UfCk_w

[3] https://history.nih.gov/display/history/Nuremburg+Code

[4] http://portal.unesco.org/en/ev.php-URL_ID=31058&URL_DO=DO_TOPIC&URL_SECTION=201.html

[5] https://www.hhs.gov/ohrp/regulations-and-policy/regulations/common-rule/

[6] https://www.nvic.org/injury-compensation/origihanlaw.aspx

[7] https://www.meehanmd.com/blog/2020-09-28-the-flu-vaccine-is-bad-medicine/

[8] https://peerj.com/articles/10112/

[9] https://www.homevaccineeducationnetwork.com/flu-vaccine-and-covid-19

[10] https://www.fda.gov/vaccines-blood-biologics/vaccines/vaccines-licensed-use-united-states

PHYSICIANS FOR INFORMED CONSENT

Delivering Data on Infectious Diseases & Vaccines™

September 22, 2020

Michael V. Drake, M.D.
President, University of California Board of Regents, president@ucop.edu
Cc: Vice President for Human Resources, Executive Vice President for UC Health,
University of California Regents Office, regentsoffice@ucop.edu
Anne Shaw, Secretary and Chief of Staff to the Regents, anne.shaw@ucop.edu

RE: University of California Executive Order July 31, 2020 (flu vaccine mandate)

Dear Professor Drake,

On behalf of hundreds of physician and scientist members of Physicians for Informed Consent, I am writing out of our concern that the bodily integrity of UC students, faculty, and staff is being potentially sacrificed by the recent UC Regents' flu vaccine mandate,[1] with no robust scientific justification. The data currently available shows the following:

1. People who receive the flu vaccine are 65% more likely to contract non-flu viruses and bacteria than people who do not receive the flu vaccine.

Patients have reported becoming ill following flu vaccination. To address the concern among patients that the flu vaccine causes illness (i.e., acute respiratory illness), the Centers for Disease Control and Prevention (CDC) conducted a three-year study, published in *Vaccine* in 2017, to analyze the risk of illness during a time period after flu vaccination compared to the risk of illness in unvaccinated individuals during the same time period.[2] The study found there is a 65% increased risk of suffering from a non-flu acute respiratory illness within 14 days of receiving the flu vaccine. The authors state, "Patients' experiences of illness after vaccination may be validated by these results."

This is important because although flu vaccines typically target at most four strains of flu virus,[3] over 200 different viruses cause illnesses that produce the same symptoms—fever, headache, aches, pains, cough, and runny nose—as influenza,[4] and more than 85% of acute respiratory illnesses do not involve the flu.[5]

2. There is evidence that the flu vaccine doesn't reduce demand on hospitals.

The studies referenced in the UC Regents' flu vaccine mandate suggest positive effects of the flu vaccine on the incidence of illness caused by flu viruses; however, that benefit may be outweighed by the negative effects of the flu vaccine on the incidence of non-flu respiratory illness. A 2018 Cochrane review of 52 clinical trials assessing the effectiveness of influenza vaccines did not find a significant difference in hospitalizations between vaccinated and unvaccinated adults. Instead, the reviewers found "low-certainty evidence that hospitalisation rates and time off work may be comparable between vaccinated and unvaccinated adults."[6]

Furthermore, a Mayo Clinic study published in 2012 found "a threefold increased risk of hospitalization in subjects who did get the TIV [trivalent inactivated influenza] vaccine."[7]

3. There is no evidence that the flu vaccine prevents the spread of influenza viruses.

Households are thought to play a major role in community spread of influenza, and there has been a long history of analyzing family households to study the incidence and transmission of respiratory illnesses of all severities. As such, the CDC funded a study of 1,441 participants, both vaccinated and unvaccinated, in 328 households. The study, published in *Clinical Infectious Diseases*, evaluated the flu vaccine's ability to prevent community-acquired influenza (household index cases) and influenza acquired in people with confirmed household exposure to the flu (secondary cases). Transmission risks were determined and characterized. In conclusion, the authors state: "There was no evidence that vaccination prevented household transmission once influenza was introduced."[8,9]

Furthermore, a systematic review of 50 influenza vaccine studies conducted for the Cochrane Library states: "Influenza vaccines have a modest effect in reducing influenza symptoms and working days lost. There is no evidence that they affect complications, such as pneumonia, or transmission."[5]

4. The flu vaccine has not reduced pneumonia and influenza mortality.

The National Vaccine Program Office, a division of the U.S. Department of Health and Human Services (HHS), funded a study to examine flu mortality over the period of 33 years (1968–2001). The study found that there has been no decrease in flu mortality since the widespread use of the influenza vaccine. The authors state: "We could not correlate increasing vaccination coverage after 1980 with declining mortality rates in any age group… [W]e conclude that observational studies substantially overestimate vaccination benefit."[10]

5. The flu vaccine fails to prevent the flu about 65% of the time.

The CDC conducts studies to assess the effects of flu vaccination each flu season to help determine if flu vaccines are working as intended.[11,12] As the flu viruses that are circulating are constantly changing (primarily due to antigenic drift mutations),[13] flu vaccines are reformulated regularly based on a "best guess" of which viruses might circulate during the coming flu season.[14] The CDC states: "CDC monitors vaccine effectiveness annually through the Influenza Vaccine Effectiveness (VE) Network, a collaboration with participating institutions in five geographic locations… [A]nnual estimates of vaccine effectiveness give a real-world look at how well the vaccine protects against influenza caused by circulating viruses each season."[12]

Data from the CDC's Influenza VE Network indicate a 65% vaccine failure rate between 2014 and 2018 (Fig. 1).[11]

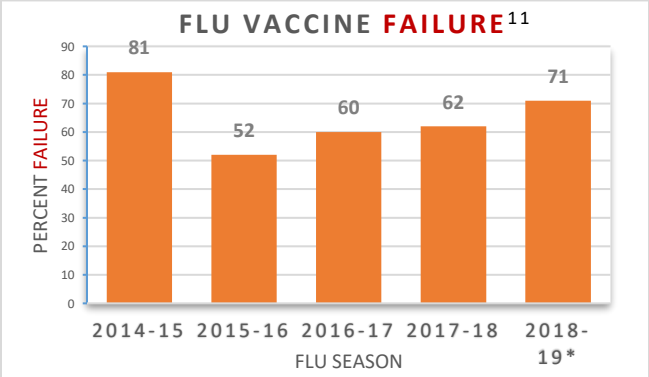

Figure 1: Centers for Disease Control and Prevention (CDC) data from the U.S. Flu VE Network indicate that the flu vaccine has failed to prevent the flu about 65% of the time.

6. Repeat flu vaccination has been shown to increase the likelihood of flu vaccine failure.

Studies have observed that influenza vaccines have a high failure rate in individuals who are vaccinated in two consecutive years.[8] A review of 17 influenza vaccine studies published in *Expert Review of Vaccines* states, "The effects of repeated annual vaccination on individual long-term protection, population immunity, and virus evolution remain largely unknown."[15]

7. The overall benefits of flu vaccination and flu vaccine policies are not clear.

A Cochrane Vaccines Field analysis evaluated studies measuring the benefits of flu vaccination. The analysis, published in the *BMJ*, concludes: "The large gap between policy and what the data tell us (when rigorously assembled and evaluated) is surprising… Evidence from systematic reviews shows that inactivated vaccines have little or no effect on the effects measured... Reasons for the current gap between policy and evidence are unclear, but given the huge resources involved, a re-evaluation should be urgently undertaken."[16]

Finally, it's important to remember that since the enactment of the National Childhood Vaccine Injury Act of 1986,[17] which has shielded both vaccine manufacturers and physicians from vaccine injury lawsuits, the National Vaccine Injury Compensation Program has awarded over $4 billion to people who incurred vaccine injuries and deaths.[18] These individuals and their families have a heightened awareness of their risk of vaccine injury, whether or not their injuries fall under the CDC list of contraindications or precautions; and flu vaccine injury claims are the most common.

We urge you to rescind the UC Regents' flu vaccine mandate as it thwarts the ability of your students, faculty, and staff to exercise their ability to refuse a medical procedure. There is no medical justification for requiring people to potentially sacrifice their bodily integrity and health in order to work or obtain an education.

Respectfully,

Shira Miller, M.D.
Founder and President
Physicians for Informed Consent

Physicians for Informed Consent (PIC) is a 501(c)(3) nonprofit educational organization that delivers data on infectious diseases and vaccines, and unites doctors, scientists, healthcare professionals, attorneys, and families who support voluntary vaccination. Its Coalition for Informed Consent (CIC) includes over 200 member organizations.
Visit physiciansforinformedconsent.org for more information.

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*Estimates presented to the Advisory Committee on Immunization Practices on June 27, 2019