

Employer-Required Vaccines

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Most states have no state exemption laws for employer-required vaccines, so you have to fall back on other state or federal law to find a legal right to refuse vaccines. Vaccine requirements in the workplace are most often a matter of company policy, though some state laws require vaccines for healthcare employee as well. This occurs most often with hospital employees, but other employers are starting to require vaccines for employees as well; the trend is aggressive and rather disturbing.

Federal law requires employers to “reasonably accommodate” their employees’ religious beliefs. So, the first step is to find out what your employer’s policy is on religious exemptions for employees. In the meantime, please note that what qualifies for a religious exemption is really broad—virtually anyone who is not an atheist can potentially qualify, but there are also legal pitfalls to avoid, so it’s wise to get reliable information about what does and doesn’t qualify before requesting an exemption.

In my experience, most hospitals fall into one of three different categories: 1) No religious exemption policy; 2) restrictive religious exemption policy (e.g., require letter from a religious leader), or 3) non-restrictive religious exemption policy, where they ask only for your beliefs in writing. With categories 1) and 2), you may need a letter from an attorney explaining the law, since you have, arguably, a legal right that they are denying, and you will probably not be able to “put the ball in their court” on your own (these letters typically run 3-4 pages and cite fed statutes and legal precedent). With all categories, consulting an experienced attorney is advised with regard to writing your “statement of religious beliefs” opposed to immunizations, as these beliefs will almost certainly be scrutinized, and there are legal pitfalls to avoid. Unfortunately, what most people think does or should qualify for a religious exemption turns out to include things that can cost you the exemption. This is an area of the law that is not entirely consistent with a “common sense” approach.

Sadly, a small percentage of hospital employers take a hard line against all vaccine exemptions, saying, in effect, “so sue me” (if you think you have a legal right). Usually, it’s the ones that refuse to recognize any religious exemption right at all that are the most difficult to deal with. If you have one of those employers, there’s a good chance you’ll end up having to decide whether or not to sue. Fortunately, most of my healthcare employee-clients have been successful in avoiding workplace vaccines.

There are a few areas where you really should hire an attorney, if the exemption is really important and you want to maximize your chance for success. This includes the

military, immigration, healthcare employees, and any state school exemptions that require you to state your religious beliefs opposed to immunizations and where the law allows authorities to scrutinize exemption claims, because of the pitfalls referred to above.

Many anti-vaccine websites provide sample affidavits, forms, letters, statements, etc. These may work where the authorities have no ability to scrutinize your exemption claim, as is the case with some state school exemptions. But since there's legal precedent that says a copied statement is “insincere” and therefore can be rejected, there is no formula approach—no unofficial form, affidavit, letter, no “one size fits all” with true religious exemptions where you have to state your beliefs and the exemption can be scrutinized. The truth is, some people have unnecessarily lost exemption rights by relying on anti-vaccine websites or by approaching it on their own, and this includes healthcare employees. Anti-vaccine websites mean well, and I certainly mean no disrespect (they are my peers in raising vaccine awareness), but the law is more complicated than they understand.

If it's really important—like anything else in life—it’s wise to consult an expert to get it right the first time and avoid unnecessary complications. You can't “un-ring the bell,” as the saying goes. You're not likely to succeed, after first being rejected, if the only thing you have to come back with is, “Oops—what I really meant to say was...”

I've developed guidelines that have helped hundreds of people and families around the U.S. successfully avoid vaccines in over a dozen different exemption contexts. It's not a lucrative practice area; there are a lot of things I could do with a law license to make a lot more money—but I'm driven by my ideals, and am here to help.

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