LAW OFFICE OF NICOLE C. PEARSON

• 3345 Newport Blvd., Ste. 200, Newport Beach, Calif. 92663 • (424) 272-5526 •
npearson@ncpesq.com

May 5, 2021

VIA CERTIFIED U.S. MAIL & E-MAIL
president@lmu.edu; thomas.poon@lmu.edu; jparrish@lmu.edu

Timothy Snyder, President
1 LMU Drive
President's Office
University Hall President's Suite 4844
Los Angeles, Calif. 90045

Thomas Poon, Executive Vice-President and Provost
1 LMU Drive
Office of the Provost
Los Angeles, Calif. 90045

Re: Notice to LMU, President Snyder, Vice-President Poon, and All Participating Faculty, Staff, and/or Board Members LMU'S Mandate of Experimental Medical Protocols Authorized Under Emergency Use Authorizations (1) Violates Federal Law 21 USC 360bbb-3(e) and Other Federal Statutes Regarding Medical Experimentation, (2) Violates International Law under the *Nuremberg Code*, and (3) Implicates HIPAA and CIMA Concerns Regarding an Individual's Rights to Privacy; Further Notice of Intent to Sue Should LMU's Policies Not Immediately Cease & Desist With A Corrected Statement of Law Issued to Faculty, Students & Parents while President Snyder and Vice-President Poon and All Participating Faculty, Staff, and/or Board Members Are Placed on Leave Pending a Full Investigation of Their Apparent Conspiracy to Violate Federal, State, and International Law.

Gentlepersons:

This letter services as official notice to Loyola Marymount University ("LMU") that LMU, President Harris, Vice-President Poon, and all Board Members, Supervisors, faculty, and staff involved in the development and implementation of its compulsory COVID-19 vaccination and testing policy ("LMU Policies") are violating various state, federal and international laws, as well as LMU's own internal policies regarding the health, well-being and best interests of its students, faculty, staff, and community ("LMU Community"). We are writing to alert you to this, and to request an immediate and thorough investigation and remediation of the same, as set forth in greater detail, below.

To be clear: **LMU must immediately cease and desist its unlawful COVID-19 policies and issue a public retraction and corrected statement of said policies no later than Friday, May 7, 20201,** or otherwise face heavy fire in the courts of law, courts of public opinion, and with the very public upon whom its funding depends. **LMU shall further ensure that its Community understands that vaccination, testing, and masking purportedly to detect and prevent the spread of SARS-CoV-2 authorized by the Federal Drug Administration ("FDA") under an "Emergency Use Authorization" ("EUA") are *experimental*, *completely voluntary, and with associated risks*, by surveying the Community *weekly* until at least ninety percent (90%) of LMU's Community confirms understanding of this**.

LMU'S CURRENT COVID-19 POLICIES

The instant problem arises from a recent communications from LMU to its students, as well as statements currently being made throughout its website, that COVID-19 vaccination and testing are now required to be on campus, including to live and to receive in person services. Specifically, on or about April 26, 2021, LMU's announced its COVID-19 Policies as follows[1]:

> Following the recommendations of the CDC, **LMU will require that all students coming to our campuses be vaccinated against COVID-19 for the fall semester.** We will allow exceptions on a case-by-case basis for students with qualifying medical or religious reasons. Where exceptions are granted, the university **may require additional COVID-19 testing, social and access restrictions, quarantining, and other requirements or limitations**.

To lead with the conclusion, **these policies mandating vaccination and testing and otherwise restricting students' lawful right to be on campus and attend and receive in-person services ("LMU'S Policies") are unlawful**. They contravene the express terms of the laws under which the vaccines are authorized (EUA (and others)) and create – whether intentional or not – a caste system whereby those with vaccines and/or test results will have privileges, while those without, will not. No one will want to be in the lower caste as they will otherwise never be able to graduate from LMU despite paying tens – if not hundreds – of thousands of hours and dollars to do so. As an aside but worth noting, many in LMU's Community are shocked – if not horrified that – that, as religious institution, LMU has taken the position that it has regarding the vaccines, given that some of the subject vaccinations contain aborted fetal tissue.

Please be further advised that, while LMU's Policies are overt mandates, *de facto* mandates – such as granting and denying privileges or access to individuals based upon their vaccination and/or testing status – are similarly illegal.

FACTS ABOUT COVID-19 "VACCINES"

Transgene Therapy

The shots LMU are mandating are not actually vaccines in the true sense of the word. Rather, these are ***experimental*** protocols, evidenced by the fact these are only able to be used pursuant to and under an EUA. The experimental nature of the protocols are further underscored by the EUA application of Johnson &Johnson ("J&J") which states that "Ad26.COV2.S" (the technical name for the J&J vaccine) delivers into the injected person "a transgene" defined as follows[2]:

> A transgene is a gene that has been transferred . . . by any of a number of **genetic engineering techniques** from **one organism to another**.
>
> The introduction of a **transgene** . . . has the potential to **change the phenotype of an organism.**
>
> Transgene describes a segment of DNA containing a gene sequence that has been **isolated from one organism and is introduced into a different organism.**

[1] https://www.lmu.edu/together/communitymessages/protectthepridegetvaxxed/ (emphasis in original)
[2] https://www.cdc.gov/vaccines/acip/meetings/downloads/slides-2021-02/28-03-01/02-COVID-Douoguih.pdf

> This **non-native segment of DNA** may . . . **alter the normal function of the transgenic organism's genetic code.**[3]

Unsuccessful, Abandoned Transgene Therapy Trials

Further, this transgene experimental protocol has ***not*** been adequately studied, and earlier attempts at animal trials were not inspiring:

- SARS/vaccinia (smallpox) recombinant vaccine (2004) in ferrets gave 100% of them hepatitis[4].

- Synthesized spike in Civets (2005) caused nearly all animals to endure Antibody Dependent Enhancement ("ADE"), or Vaccine Enhanced Disease ("VED")[5].

- SARS CoV in Mice (2012) caused lung eosinophil infiltration in nearly all[6].

- MERS CoV in Mice (2016) caused 100% lung immunopathology[7].

Ironically, in most of these studies there was beautiful antibody production post-shot. However, when subjects were challenged by exposure to the wild virus after inoculation, a "malfunction" (ADE or VDE) that triggered a severe immune reaction where the body released too many cytokines into the blood too quickly – or a "cytokine storm" – which was fatal in the animals. **These results of these types of animal studies were omitted in the development of the 2020 COVID-19 vaccines** (likely because these were the results). Therefore, ***we are the guinea pigs.***

Disreputable Manufacturers

It is also worth noting that the four major companies producing these vaccines – Moderna, J&J, Pfizer, and AstraZeneca – have and are some or all of the following:

- Have never brought a vaccine to market before (Moderna, J&J);

- Are serial felons (Pfizer, and AstraZeneca);

- Are both (J&J).

To wit, Moderna's goal has been to "Modernize our RNA" (hence, the company name); however, it has ***never been able to successfully get any product to market.*** As a result, the government stepped in late last year (2020) with a $1.5B cash infusion so it could keep trying.[8] Conversely, other major vaccine makers that *have* made it to market, but have had to pay **tens of billions of dollars for harm caused** by their products, which they ***knew*** would cause injury and death, e.g. Vioxx, Celebrex, Bextra, Thalidomide, and Opioids, to name a few:

---

[3] https://en.wikipedia.org/wiki/Transgene (emphasis added).
[4] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC525089/.
[5] https://core.ac.uk/reader/95554890; https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7484565/.
[6] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3335060/.
[7] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5578707/.
[8] https://www.nejm.org/doi/full/10.1056/nejmoa2022483; https://www.forbes.com/sites/judystone/2020/12/03/the-peoples-vaccine-modernas-coronavirus-vaccine-was-largely-funded-by-taxpayer-dollars/?sh=4bd169846303

- **J&J** lost major lawsuits in 1995, 1996, 2001, 2010, 2011, 2016, 2019.[9] In fact, ***as recently as April 13, 2021,*** **J&J its vaccine put on "pause" by the Food and Drug Administration ("FDA") due to a blood-clotting disorder that developed in recipients**.[10] It is also worth noting that **J&J's vaccine admittedly uses tissues from aborted fetal cells**[11], which should typically be an ethical issue for a religious institution.

- **Pfizer** has the distinction of the **biggest *criminal* payout in history**[12] and has lost too many lawsuits to count,[13] which is why it is demanding that countries that do not offer liability protection put up collateral to cover vaccine-injury claims.[14]

- **AstraZeneca** has similarly lost so many lawsuits it's hard to keep track[15], but its COVID vaccine is currently suspended in at least 18 countries over concerns of blood clots[16], and it completely botched its meeting with the FDA with study numbers that did not match what was reported in press releases.[17]

- **J&J** (vaccine approved for "Emergency Use") ***and*** **AstraZeneca** (vaccine *not* approved for "Emergency Use"), had a little mix up in their ingredients . . . to the tune of in 15 million doses. Small "oops".[18]

Shocking Statistical Probability of Serious Harm or Death

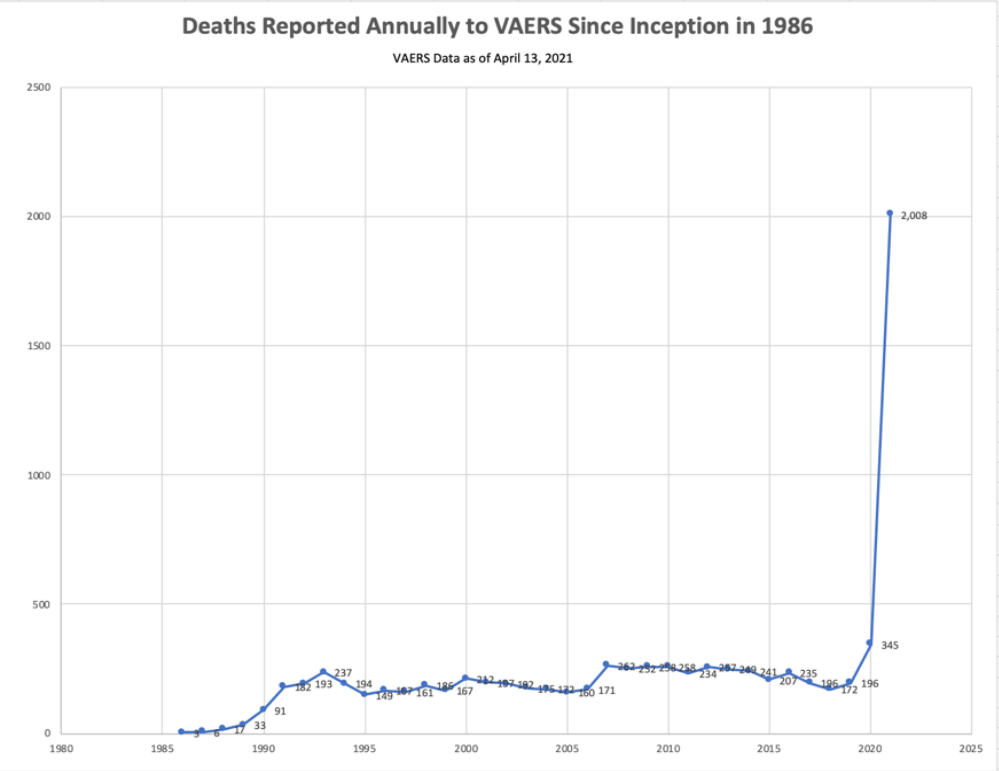
In addition to the fact that there was essentially zero safety testing for and the manufacturers of the products LMU is now mandating are serial felons and/or have never been able to bring a product to market, reports are now revealing that the greatest risk to public health is not the virus, but the shot itself. To understand the shocking statistics, one must understand that the public is almost completely barred from suing a vaccine manufacturer in the United States from vaccine injury or death courtesy of the *National Childhood Vaccine Injury Act of 1986* ("the Act").[19] Per the Act, vaccine injuries and deaths are tracked by the Vaccine Adverse Events Reporting System ("VAERS") and those who wish to receive compensation for these must do so ***not*** in public courts of law, but by first reporting the harm to the VAERS, then filing a case with Vaccine Injury Compensation Program ("VICP")

---

[9] https://childrenshealthdefense.org/defender/johnson-johnson-why-trust-vaccine/
[10] https://www.fda.gov/news-events/press-announcements/joint-cdc-and-fda-statement-johnson-johnson-covid-19-vaccine.
[11] https://www.jnj.com/johnson-johnson-covid-19-vaccine-authorized-by-u-s-fda-for-emergency-usefirst-single-shot-vaccine-in-fight-against-global-pandemic; *see* Douoguih Slides (fn. 2).
[12] https://www.forbes.com/sites/judystone/2020/12/03/the-peoples-vaccine-modernas-coronavirus-vaccine-was-largely-funded-by-taxpayer-dollars/?sh=4bd169846303
[13] https://www.mp-22.com/vax
[14] https://www.reuters.com/article/us-health-coronavirus-peru-vaccines/peruvian-minister-raises-controversy-over-pfizer-vaccine-liability-clause-idUSKBN29A2J7; https://www.statnews.com/2021/02/23/pfizer-plays-hardball-in-covid19-vaccine-negotiations-in-latin-america/
[15] https://www.justice.gov/opa/pr/pharmaceutical-giant-astrazeneca-pay-520-million-label-drug-marketing; https://www.reuters.com/article/us-astrazeneca-texas-lawsuits-idUSKBN1KT0Q9,
[16] https://www.businessinsider.com/astrazeneca-covid-vaccine-countries-suspend-denmark-thailand-batch-blood-clots-2021-3?op=1
[17] https://thehighwire.com/videos/astrazeneca-vaccine-falls-from-grace/
[18] https://www.deconstructingconventional.com/post/18-reason-i-won-t-be-getting-a-covid-vaccine; https://www.deconstructingconventional.com/post/18-reason-i-won-t-be-getting-a-covid-vaccine
[19] *See* https://www.hrsa.gov/vaccine-compensation/about/index.html

within three (3) years of the date of injury or death.[20] Additionally, according to a 2007 study done by Harvard University at the commission of our own government, **fewer than one percent (1%) of all adverse reactions to vaccines are actually submitted to the VAERS.**[21]

While the massive under-reporting problems with VAERS have yet to be fixed at the time of this writing, VAERS nonetheless reports 118,902 adverse events – including 3,544 deaths – following COVID vaccines between Deecmber15, 2020 and May 4, 2021.[22] **If those numbers are only one percent (1%) of the total adverse reactions, the statistical reality is that there have actually been somewhere around 110,00 to 220,000 deaths from the vaccines, to date, and an astronomical number of adverse reactions.** For those visual learners, the following is a 2021 graphic representation demonstrating the variance in injury reports to VAERS over the last 30 years:



We understand that VAERS does not prove causation; however, we *can compare* the death and injury reports to other data sets within the same database and see the glaring disparity. The U.S. administers about 25 million doses of vaccines to children every month, so while the number of doses given has doubled, the number of injuries and deaths reported after vaccines has *skyrocketed*. These statistics become even more disturbing when coupled with the fact that **the *Public Readiness and Emergency Preparedness Act* ("PREP Act") compensation fund denies compensation to ninety-four percent (94%) of claims made for injuries suffered as a result of EUA authorized protocols, procedures, products, therapies, etc.**

---

[20] https://www.hrsa.gov/vaccine-compensation/index.html; https://childrenshealthdefense.org/national-vaccine-injury-compensation-program/

[21] *Ibid.;* https://digital.ahrq.gov/ahrq-funded-projects/electronic-support-public-health-vaccine-adverse-event-reporting-system; https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf.

[22] https://www.medalerts.org/vaersdb/findfield.php?TABLE=ON&GROUP1=CAT&EVENTS=ON&VAX=COVID19

Immunity for Manufacturers, Only

While vaccine manufacturers are immune from suit for death or serious injuries resulting from their products, *schools and employers are not*. [23] Although we are (clearly) not your counsel, given the high risk of injury and death from the EUA protocols LMU is mandating, as well as illegality of LMU's Policies under state, federal, and international law (as set forth in greater detail, below), LMU would be well-advised as a matter of common sense and risk avoidance to avoid making statements that could be interpreted as a suggestion, encouragement, or mandate to partake in the same. This is particularly true given that for the population concerned – college and graduate students between the ages of seventeen (17) and twenty-five (25) years old – the "cure" is worse than the disease in terms of risk. Specifically, reviewing numbers from the Center for Disease Control ("CDC"), COVID-19 has an overall 99.74% survival rate. Indeed, per the CDC, the risk of children dying from COVID is "so low it is calculated at 0.0%."[24] Conversely, the risk of harm from taking the vaccine must not be ignored: witness, the teenage boy who "wanted a shot" and is now paralyzed[25], as well as the many doctors and nurses who suffered permanent seizures or death. [26] Which begs the question: ***Why is LMU mandating an experimental and dangerous protocol to help individuals overcome a cold that has a 0.26% chance of killing the average adult, a 0.1% chance of killing a graduate-age student, and a ~0.01% chance of killing the college-age student***?[27]

THE TRUTH ABOUT POLYMERASE CHAIN REACTION DIAGNOSTIC TESTING

LMU's PCR / testing mandate or "alternative" is similarly illegal. Like the vaccines, PCR tests for viral detection are only authorized as experimental protocols under the EUA and, thus, cannot be mandated as a matter of law.[28] On March 27, 2020 the FDA issued an EUA permitting authorized laboratories to use existing PCR testing instruments commonly used to test for seasonal influenza virus to detect nucleic acid from the 2019-nCoV in upper and lower respiratory specimens.[29] Polymerase chain reaction ("PCR") is a technique used to rapidly make millions to billions of copies of a small sample of DNA – to "amplify" it – to create a large enough sample size to study in detail. While PCR revolutionized the study of DNA and has evolved to be used for genotyping, cloning, sequencing, detecting mutations, microarrays, forensic, and paternity testing, **it was never intended and cannot be used, alone, as a diagnostic.** [30]

"Best Practices" for Testing and Diagnosis for Respiratory Illness

The PCR Test is a "molecular test" that detects genetic material of the virus from a fluid sample collected with a nasal or throat swab, or saliva (spit) via a polymerase chain reaction.[31] Before "the

---

[23] 42 U.S. Code § 247d-6(d); https://www.phe.gov/Preparedness/legal/prepact/Pages/prepqa.aspx.
[24] Schools Should Open in Full This Fall, Bloomberg (5/10/20) (quoting CDC report found at: https://data.cdc.gov/NCHS/Provisional-COVID-19-Death-Counts-by-Sex-Age-and-S/9bhg-hcku.
[25] https://childrenshealthdefense.org/defender/teen-guillain-barre-covid-vaccine/?utm_source=salsa&eType=EmailBlastContent&eId=29da8e5a-0d9e-4bd2-b9ae-a65b2e2e7b15
[26] https://drive.google.com/file/d/1kNEbfH-ml5Y_bk_tp8hyJKRVo5ArRdN6/view?usp=sharing
[27] *Ibid.*
[28] https://www.cdc.gov/coronavirus/2019-ncov/lab/virus-requests.html.
[29] https://www.fda.gov/media/136598/download.
[30] https://en.wikipedia.org/wiki/Polymerase_chain_reaction; https://www.sciencemag.org/features/2018/05/pcr-thirty-five-years-and-counting ; https://www.genome.gov/about-genomics/fact-sheets/Polymerase-Chain-Reaction-Fact-Sheet.
[31] https://www.fda.gov/consumers/consumer-updates/coronavirus-disease-2019-testing-basics; https://www.mayoclinic.org/diseases-conditions/coronavirus/expert-answers/covid-antibody-tests/faq-20484429;

pandemic," best practice when treating patients presenting with moderate-to-severe upper respiratory symptoms, suspicious for infection, would involve testing for the underlying cause using a point of care rapid or a respiratory viral panel (RVP) testing for twenty (20) different respiratory viruses[32]. Since the "pandemic" many providers began testing *only* for SARS-CoV-2 and no other respiratory viruses. As a result, **the CDC's mandatory reporting system reports 20,598 positive cases of influenza A (H1N1)pdm09 in the 2017/2018 flu season, and only 1,591 positive cases in the 2019/2020 season, a ninety-three percent (93%) decrease in one flu season**.[33] Not only is this highly unlikely, but almost scientifically, statistically, and medically implausible.

In addition to being used – and its results interpreted – improperly, the PCR Test involves "a lot of hands-on work" that exposes it to extreme human error.[34] The FDA is aware of this and, thus, in May 2020, revised its "Policy for Coronavirus Disease-2019 Tests during the Public Health Emergency" to include the following "caveats" [35]:

> **3. Labeling and Reporting of Results**
>
> In order to provide important information about the intended use of the test and its limitations, FDA recommends that instructions for use and patient test reports include information that helps users and patients understand the test results, such as the following:
>
> - **This test has not been reviewed by the FDA.**
> - Negative results do not preclude acute SARS-CoV-2 infection. If acute infection is suspected, direct testing for SARS-CoV-2 is necessary.
> - Results from antibody testing should not be used to diagnose or exclude acute SARS- CoV-2 infection.
> - **Positive results may be due to past infection with non-SARS-CoV-2 coronavirus strains,** such as coronavirus HKU1, NL63, OC43, or 229E.

This basic review of PCR testing technology reveals that it is innately riddled with opportunities for human error, **and the FDA has *admitted* to as much**. The FDA has admitted that, whether or not a test is accurate depends on how each test is administered and that there is a risk of false-negative results if the sample is not taken correctly," and also that the "positive predictive value" – or the likelihood that a positive test result correctly reflects active COVID-19 infection – "depends on how widespread the disease is, *and that situation is changing quickly."*[36] This is especially true where the FDA has now authorized *at-home* testing without any clinical supervision.[37]

/ / /

---

https://www.centerforhealthsecurity.org/covid-19TestingToolkit/testing-basics/types-of-COVID-19-tests/antigen-and-molecular-tests.html

[32] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2045291/

[33] https://gis.cdc.gov/grasp/fluview/flu_by_age_virus.html

[34] *Ibid.*; https://www.scientificamerican.com/article/heres-how-coronavirus-tests-work-and-who-offers-them/

[35] https://www.fda.gov/media/135659/download (emphasis added)

[36] *Ibid.* (Emphasis in original)

[37] https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-issues-authorization-first-molecular-non-prescription-home-test

Deficiencies & Errors in Testing Protocol

In addition to these intrinsic flaws, the PCR Test has now *actually* been *scientifically proven* to be deficient and flawed, both here in the U.S. and abroad. These deficiencies and flaws include, but are not limited to, the following:

1. **The Test does not confirm infectiousness**[38]. The Test looks for genetic material of the virus, which can linger inactive (dead) in the body after the infection has resolved itself. In fact, the CDC states in its *CDC 2019-Novel Coronavirus (2019-nCoV) Real-Time RT-PCR Diagnostic Panel Instruction Manual*, "[d]etection of viral RNA may not indicate the presence of infectious virus or that 2019-nCoV is the causative agent for clinical symptoms."[39]

2. **The Test is only intended for use in individuals with symptoms under the direction of a healthcare provider.** The FDA's EUA for the Test specifically states that the "Indication" for PCR Test use is "Qualitative detection of nucleic acid from SARS-CoV-2 in respiratory specimens collected from individuals suspected of COVID-19 by their healthcare provider."[40] To that end, *both* the CDC and FDA recommend symptom-based strategy for testing, meaning only those *with symptoms* should be tested.[41]

3. Inconsistent controls, e.g. cycle threshold amplifications, between labs mean yield inconsistent results and findings.[42]

4. **Cycle threshold amplification of thirty-five (35) or more result in ninety-seven percent (97%) *false* positive results[43].**
5. Cycle threshold amplification at thirty-five (35) cannot distinguish between viral shedding and active viral loads.[44]

6. Cycle threshold amplification of thirty (30) still yields false positive results and the Tests as currently authorized are ineffective.[45]
    a. In 2020, researchers found that infectivity is related to the date of onset of symptoms and cycle threshold level and that "a binary 'Yes/No approach' to the interpretation RT-PCR test results without validation against viral culture will result in false positives with possible segregation of large numbers of people who are no longer infectious and hence not a threat to public health". **The researchers concluded that "Complete live viruses are necessary for transmission, not the fragments identified by PCR. Prospective routine testing of reference and culture specimens and their relationship to symptoms, signs and patient co-factors**

[38] https://www.fda.gov/media/134922/download; https://www.nationalacademies.org/based-on-science/can-a-covid-19-test-tell-me-if-im-contagious; https://academic.oup.com/cid/advance-article/doi/10.1093/cid/ciaa1764/6018217?searchresult=1; https://pubmed.ncbi.nlm.nih.gov/33270107/; https://www.medrxiv.org/content/10.1101/2020.08.04.20167932v4
[39] https://www.fda.gov/media/134922/download
[40] https://www.fda.gov/media/136598/download
[41] *Ibid.*; https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html
[42] *Ibid.;* https://www.fda.gov/media/136703/download
[43] https://academic.oup.com/cid/advance-article/doi/10.1093/cid/ciaa1491/5912603 ("Jafaar et al., 2020"); https://cormandrostenreview.com/report/
[44]; https://cormandrostenreview.com/report/
[45] *See* Jafaar et al., 2020 (emphasis added)

should be used to define the reliability of PCR for assessing infectious potential. <u>Those with high cycle threshold are unlikely to have infectious potential</u>."

7. **The Test is currently prohibited in dozens of countries:**
    a. In November 2020, a Portuguese appeals court ruled that PCR Tests are unreliable and that it is unlawful to quarantine people based solely on their PCR Test results.[46] Citing Jaafar et al., 2020, the Court found that the reliability of the PCR Test depends on the number of cycles used and the viral load present. The Court noted, **"[I]f someone is tested by PCR as positive when a threshold of 35 cycles or higher is used (as is the rule in most laboratories in Europe and the US), the probability that said person is infected is less than 3%, and the probability that said result is a false positive is 97%."** The Court also noted, "Given how much scientific doubt exists — as voiced by experts, i.e., those who matter — about the reliability of the PCR tests, given the lack of information concerning the tests' analytical parameters, and in the absence of a physician's diagnosis supporting the existence of infection or risk, there is no way this court would ever be able to determine whether C was indeed a carrier of the [virus], or whether A, B and D had been at a high risk of exposure to it."
    b. Similarly in Austria, following Portuguese, German, Dutch, and Pilipino suit, the Vienna Administrative Court held on March 24, 2021 that **"a PCR test is not suitable for diagnosis and therefore does not in itself say anything about the disease or infection of a person."** The Court also held that the "information" put forth by the Vienna State Police Department of PCR Test results to justify lockdowns "did not contain any valid and evidenced-based findings[.]."[47]

It is only a matter of time before American courts make the same findings and rulings and that LMU will be facing similar liability not only for forcing its students, faculty, and staff to participate in this experimental, ineffective, and inaccurate protocols, but for violation of the numerous national and international authorities discussed in greater detail, below.

<u>LEGAL FRAMEWORK SURROUNDING EMERGENCY USE EXPERIMENTAL PROTOCOLS</u>

Mandating students, faculty, and staff to vaccinate and/or test as a prerequisite and condition to attending class, completing coursework, and graduating not only defies common sense, but all applicable law, including, but not limited to the following:

Emergency Use Authorization ("EUA") Law

The EUA statute explicitly states that administration of all EUA products must "ensure that individuals to whom the product is administered are informed … of the **option** to accept or refuse administration of the product."[48] Federal and state law on this point stem from the first principle of the *Nuremberg Code* that the human subject be "so situated as to be able to exercise free power of choice ***without*** **undue inducement or any element of force, fraud, deceit, duress or other forms**

[46] https://www.theportugalnews.com/news/2020-11-27/covid-pcr-test-reliability-doubtful-portugal-judges/56962.
[47] https://greatgameindia.com/austria-court-pcr-test/ (emphasis added)
[48] 21 U.S.C. Sec. 360bbb-3(e). (Emphasis added).

of constraint or coercion."[49] This is a bright line that cannot be blurred. Consent of the individual is **"*absolutely* essential."**[50]-The CDC has also correctly stated it is illegal and unethical to mandate EUA testing or vaccination in schools.[51] This was confirmed, again, at an Advisory Committee on Immunization Practices ("ACIP") meeting in August 2020, where ACIP Executive Secretary, Dr. Amanda Cohn, stated[52]:

> I just wanted to add that, just wanted to remind everybody, that under an Emergency Use Authorization, an EUA, **vaccines are not allowed to be mandatory.** So, early in this vaccination phase, **individuals will have to be consented and they won't be able to be mandated**.

Equal Employment Opportunity Commissions Anti-Discrimination Laws

While this letter is primarily concerned with LMU's unlawful directives to students, since we, now, have little faith in any existing or forthcoming policies involving its adult populations, we would be remiss to not issue a stern word of caution in that regard, as well. Therefore, on December 16, 2020, the Equal Employment Opportunity Commission ("EEOC") issued updated pandemic guidance regarding current testing and vaccine mandates for employees ("the Guidance"). The Guidance made clear that all workplace anti-discrimination laws continue to apply during the time of COVID, including:

- *Americans with Disabilities Act*;
- *Rehabilitation Act*, including the requirement for reasonable accommodations and non-discrimination based on disability, as well as strict rules about employer-mandated or employer-led medical examinations and inquiries;
- Title VII of the *Civil Rights Act* (which prohibits discrimination based on race, color, national origin, religion, and sex, including pregnancy);
- *Age Discrimination in Employment Act* (which prohibits discrimination based on age, 40 or older);
- the *Genetic Information Nondiscrimination Act*; and
- Other federal, state and local laws that grant employees additional protections.

The Guidance also included a variety of cautionary instructions for employers, including "restrictions on disability-related questions and recognized protections that must be afforded to employees seeking exemption from vaccination [or other] requirements due to medical conditions or sincerely

---

[49] THE NUREMBERG CODE [from Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10. Nuremberg, October 1946–April 1949. Washington, D.C.: U.S. G.P.O, 1949–1953. (Emphasis added).
[50] *Ibid.* (Emphasis added).
[51] https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Fschools-childcare%2Fk-12-testing.html.
[52] US Centers for Disease Control (September 2020), *August 2020 ACIP Meeting - COVID-19 vaccine supply & next steps.* https://www.cdc.gov/vaccines/videos/low-res/acipaug2020/Covid-19Supply-NextSteps_3_LowRes.mp4 (@1:14:40).

held religious beliefs."[53] To that end, Sections A, D, G and K lay out procedures that all employers must follow to set up programs to distribute EUA products after implementing procedures to process disability and religious accommodation requests. [54] This, alone, is such an extensive process that, if mishandled, can easily expose employers to liability. Requirements related to full disclosure, informed consent, and accommodations are also required and are more onerous than for fully-approved products.[55]

Please note that we understand it is always permissible for employers to offer experimental products to employees *on a voluntary basis*; however, the employees' decision to answer questions regarding pre-screening, disability, or intent to participate must remain confidential and voluntary (expressly given, after being fully-informed of the risks and options detailed herein, above). These kinds of voluntary programs are far safer and cost-effective, and provide the means to address workplace safety and operational concerns without the significant risks associated with mandatory programs. That said, **even voluntary programs must follow EUA law regarding "informed consent and provide language to satisfy the following[56]:**

> That the Secretary has authorized the emergency use of the product . . . the **significant known and potential benefits and risks of such use, and of the extent to which such benefits and risks are unknown . . .**
>
> Appropriate conditions designed to ensure that individuals to whom the product is administered are informed . . . **of the option to accept or refuse administration of the product**, of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

Some small employers are rolling out or have already implemented illegal employee mandate programs and *many of these employers are being sued*. Employer mandates, in particular, present a number of serious ethical, medical, economic, racial, and societal dilemmas and class action lawsuits brought by members of racial minorities – who make up most of the workforce, do not typically have alternate work options and feel compelled to participate in unlawful vaccine mandates, and generally are more biologically vulnerable to vaccine harm – are the type of plaintiff class employers do not want to defend against. In addition to these risks of liability and exposure, employers typically suffer significant business losses resulting from impacted customer and employee loyalty and morale.

California's Health & Safety Code

California's *Health & Safety Code*, Section 24170 *et seq*. codifies quite clearly that **"medical experimentation" is to be "done in such a way as to protect the rights of the human subjects involved."[57]** It further states that it is of paramount importance that California "protect[] citizens of the state from unauthorized, needless, hazardous, or negligently performed medical experiments on human beings," and, thus, the Legislature declared it to be **"the intent of the Legislature . . . to provide minimum statutory protection for the citizens of this state with regard to human experimentation and to provide penalties for those who violate such provisions."[58]** To that end,

---

[53] *Ibid.*
[54] *Ibid.*
[55] *Ibid.; see also* https://www.fda.gov/regulatory-information/search-fda-guidance-documents/emergency-use-authorization-medical-products-and-related-authorities
[56] 21 USC Sec 360bbb-3(e) (emphasis added).
[57] *H&SC,* §24170 (emphasis added)
[58] *Ibid.*

the California Legislature codified fines for those who do conduct medical experiments without the subject's informed consent[59]:

- those "primarily responsible": fine up to "**ten thousand dollars ($10,000)**,"
- those who "willfully fail[] to obtain the subject's informed consent" and "thereby expose a subject to a known substantial risk of serious injury, either bodily harm or psychological harm": **"imprisonment in the county jail for a period not to exceed one (1) year, a fine of fifty thousand dollars ($50,000), *or both***." [60]

It should be noted that *each and every* medical experiment performed in violation of any provision of this chapter is a ***separate, actionable offense,***" subject to the aforementioned sentences and fines.[61]

The Right to Medical Privacy per HIPAA, FERPA & CMIA

Even if an EUA injectable, recombinant vaccine and/or test were to become fully-licensed or authorized in the future, any discrimination or double-standards applied to those who do or cannot have the products would create inadvertent disclosure of private medical information to that person's community. This would result in *de facto* violation of *Health Insurance Portability and Accountability Act* ("HIPAA") and California's guaranteed right to medical privacy by way of the *Confidentiality of Medical Information Act* ("CMIA"), which states, in pertinent part, that "[a] person or entity that wishes to obtain medical information . . . shall obtain a valid authorization for the release of this information." [62]

Right to Give Informed Consent

LMU's mandate that all students intending to live on campus or attend in-person classes subject themselves to the vaccine or otherwise undergo testing, issued with no further information or notice of a student's right to refuse or opt-out directly contravene a number of additional federal regulations, notably the *National Research Act* [Title II, Public Law 93-348], *Regulations for the Protection of Human Subjects of Biomedical and Behavioral Research* [45 CFR 46], and revisions of various other regulations, rules, and laws ([21 CFR 50], [21 CFR 56], [45 CFR 46(D)], [10 CFR 745], [45 CFR 46(B)], [45 CFR 46(D)]), all of which expressly and permanently guarantee that all persons in the United States are entitled to exercise the right of informed consent to accept or to refuse to enroll in any medical experiment.

The Nuremberg Code

The reason both federal and state legislatures so forcefully prohibit forcing people into experimental medical protocols without truly informed consent is based on the Nazi and SS experimentation on human subjects who were ***not*** given proper – if any – opportunity to consent, or to refuse the "Angel of Death," Josef Mengele's, deadly experimental protocols. The Preamble to Section 24710 of the *Health & Safety Code* specifically states, in pertinent part[63]:

---

[59] *H&SC,* §24171
[60] *H&SC,* §24176 (emphasis added)
[61] *Ibid.,* Subsection (e) (emphasis added)
[62] 42 U.S. Code §1320d-6; *Civil Code,* Section 56.11
[63] *H&SC,* §21740 (emphasis added).

> The Nuremberg Code of Ethics in Medical Research was developed after the trial of Nazi war criminals for unethical use of persons in medical experiments; subsequently, the Declaration of Helsinki additionally established recommendations guiding doctors in experimentation involving human subjects[.]
>
> It is necessary that medical experimentation be done in such a way as to protect the rights of the human subjects involved.
>
> There is, and **will continue to be, a growing need for protection for citizens of the state from unauthorized**, needless, hazardous, or negligently performed **medical experiments on human beings.**
>
> It is, therefore, the intent of the Legislature, in the enacting of this chapter, to provide minimum statutory protection for the citizens of this state with regard to human experimentation and to provide penalties for those who violate such provisions.

Indeed, the last broad-scale system for experimental medical protocols directed at vulnerable students and youth was under the direction of Dr. Mengele, who saw an opportunity to conduct gene research, primarily on children, with no regard for the health or safety of his victims. The SS war criminals who authorized, and the doctors who conducted, these human experiments were made to stand trial in Nuremberg beginning in 1945 at the Doctors' Trial, where they were sentenced to death or life in prison.[64] *The Nuremberg Code* was born from these horrific human rights violations by the American judges who sat in the Doctors' Trial and today serves as a blueprint for the principles that ensure the rights of subjects in medical research ("The Code"). It is the single most important document in the history of the ethics of medical research.

Voluntary Consent

The first principle of The Code is the fact that the "voluntary consent of the human subject is absolutely essential." This means that the "person involved should have legal capacity to give consent and 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."[65] To be nothing if not clear: ***LMU's Policies tying vaccination and/or testing and/or masking to attending school and graduating (the right to complete / an education) or to living on campus (safety, shelter) constitute duress, overreaching, constraint and coercion, and completely gut the "free power of choice" that is required under The Code.***

Informed Consent

Further, **LMU has not bothered to notify students** (or, on information and belief, faculty and/or staff) **of "all inconveniences and hazards reasonably to be expected and the effects upon his health or person which may possibly come from his participation in the experiment,"** [66] another violation of The Code.

/ / /

[64] *United States of America v. Karl Brandt, et al.;* https://en.wikipedia.org/wiki/Doctors%27_trial
[65] *Ibid.* (emphasis added).
[66] *Ibid.*

Right to Life and Health Supersedes Scientific or Medical Knowledge

The fifth precept of *The Nuremberg Code* is that **"no experiment should be conducted where there is an *a priori* reason to believe that death or disabling injury will occur."**[67] Given that we now know death and serious injuries are skyrocketing post-shot and this is due to 99% underreporting to VAERS, LMU should not be forcing its students to participate in an experiment with such serious and fatal consequences, at all, let alone without advising them of these facts. This obligation is ever more underscored by the next six principles of The Code, which hold that **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."**[68] Here, we know the young adults targeted by LMU's mandates are 99.9% to 100% likely to survive the common cold symptoms presented by COVID, while the risk of death and injury to them from the vaccine is much greater. Yet another violation of The Code.

Illegal De Facto Mandates

To the extent LMU decides to "pull back" its express, unlawful mandate that students receive the shot in order to be on campus by making receipt "voluntary," subject to conditions, this would be similarly unlawful. A "voluntary" COVID shot or test is a *de facto* mandate if an institution:

- Does not give information on the EUA mRNA injectables and recombinant vaccines or EUA test being **voluntary**, either by omission or commission;
- **Does not fully inform potential recipients of the known and potential risks** of the EUA mRNA injectables and recombinant vaccines or EUA test;
- Threatens to fire an employee if she does not submit to an EUA mRNA injectable, EUA recombinant vaccine or EUA test;
- Encourages and allows peer pressure, bullying or discrimination from professors, students or other community members to get an EUA mRNA injectable, EUA recombinant vaccine, or EUA test;
- Does not keep EUA vaccine status or EUA test results confidential, violating HIPAA;
- **Threatens to remove campus privileges**, like dining hall, dorms, and in-person classroom learning, in order to "incentivize" participation;
- Falsely imprisons a student or employee in a home, dorm, hotel, other building, or even confines her to a geographic area, under duress of losing employment or privileges – such as on-site or cafeteria privileges — for refusing an EUA mRNA injectable, recombinant vaccine or test;
- **Imposes punitive measures for those who do not want an EUA mRNA injectable**, recombinant vaccine, or EUA test, like masking, distancing, withholding of privileges, separated learning, eating or working, or, as here, withholding of practicum attendance or graduation;

[67] *Ibid.*
[68] *Ibid.*

- Issues a reward or special community privilege to those who get an EUA mRNA injectable, recombinant vaccine or test, like a sticker, armband, QR code, or an app dictating where someone can enter, creating a discriminatory environment for those who do not don the "reward" pass.

Here, should LMU proceed as currently stated, it is in violation in *all* of the scenarios listed, above, and LMU's unlawful conduct would subject it to liability.

SURVEY DETAILS

Since it is likely that the vast majority of the school, staff and community members do not know that the EUA COVID-related vaccines, PCR tests, and masks to prevent viral transmission are not fully approved and their use is, therefore, voluntary, **LMU must immediately (1) circulate this letter to rectify misinformation and (2) begin surveying its Community on these points until ninety-percent (90%) of the the Community understands the above**. This is especially important with respect to students who are especially vulnerable to peer pressure, anxious about graduating an expensive program, and less able to resist coercion and duress. To be nothing but clear, again, **LMU shall initiate a heavily-funded communications plan to correct current misunderstandings about the law and science surrounding COVID and associated EUA protocols by way of a weekly electronic survey that shall be deployed until ninety-percent (90%) or more of the school community understands the following:**

- EUA masks, tests, and shots are *voluntary, **by law***;
- There are certain known and potential risks of each of these, including death;
- There shall be no peer pressure, bullying, discrimination, incentives, duress or coercion based on masking, testing, or vaccine status;
- Give specific examples of peer pressure, bullying, etc. and actions they take to prevent the same;
- Provide a list of administrative resources available to answer any questions relating to the virus and any concerns relating thereto.

CONCLUSION

In sum, **we hereby demand that LMU *immediately***:

(1) Cease and desist with the policies, emails, statements or other expressions related to the above-cited, inaccurate, unlawful COVD-19 mandates / LMU Policies;

(2) Issue written letter the entire LMU Community by e-mail and regular mail

a. Retracting all such statements,

b. Explaining that no educational classes, graduations, certificates, units, or any other privileges will be withheld based on vaccination status, and

/ / /

c. Giving notice that that LMU will comply with the EUA, *Health & Safety Code,* and other applicable laws, and not mandate any experimental protocols, whether that be COVID vaccination, PCR testing, or the use of face masks or coverings to contain viral transmission;

(3) Survey students and staff weekly until such time as 90%+ understand that COVID-19-related vaccines, masks, and testing are *not* mandatory, the risks associated therewith, and what school resources are available to them to prevent and rectify misinformation; and

(4) Immediately place President Snyder, Vice-President Poon, and any other members of its Community on leave without pay pending a full investigation of their conduct, followed by an immediate termination and public reprimand should the results of the investigation substantiate the unlawful misconduct detailed above.

We thank you for your attention to the above and look forward to receiving a response no later than Friday, May 7, 2021.

Very truly yours,

Nicole C. Pearson, Esq.
LAW OFFICE OF NICOLE C. PEARSON

NCP/mc

Cc: John Parrish (jparrish@lmu.edu)