# Form for Employees Whose Employers Are Requiring Covid-19 Injections under Emergency Use Authorization

(The Solari Report, revised July 22, 2021)

[*NOTE TO EMPLOYEE:* ***Be sure to document the date and time you submit the form to your employer; also document the date and time and their response if they refuse to sign it****. Note that three other Solari Report forms1,2,3 are also available as downloadable PDFs: the “Family Financial Disclosure Form for Covid-19 Injections”; “Notice and Declaration of Parental Authority Requirement of Disclosure and Safety of Medical Treatment/s”; and “Form for Students Attending Colleges or Universities Requiring Covid-19 Injections under Emergency Use Authorization.”*]

# Introduction

The situation with Covid-19 injections is fluid and evolving rapidly. As of July 2021, three vaccines were being administered in the U.S. under Food and Drug Administration (FDA) emergency use authorization (EUA): the Pfizer-BioNTech and Moderna mRNA injections and the Janssen/Johnson & Johnson adenovirus-vectored injection.

The injections’ regulatory status could soon change. On July 16, the FDA granted priority review to Pfizer’s application for full approval (licensure) of its Covid-19 vaccine for those age 16 and up. Moderna and Johnson & Johnson are also preparing to seek full approval. FDA officials have pledged to issue a decision with respect to the Pfizer application within two months. And though “not intervening in the decision of government scientists,” President Biden predicts full approval by September or October.**4**

Approval would have significant workplace ramifications. Assuming one or more shots receives full approval, public health experts expect “a wave of Covid-19 vaccine mandates,” confidently anticipating that licensure will “remove a significant legal and public relations barrier for businesses...that want to”—or are being pressured to—require vaccinations for their employees.**5** Even under EUA, one federal agency (the Department of Veterans Affairs) has already mandated (on July 26) the experimental injections for its health care personnel, setting a federal precedent for employee mandates that others may soon follow. That same day, the Department of Justice published an opinion stating that it is legal for “public and private entities” to mandate Covid vaccines despite the injections only being approved for emergency use.

American workers who do not wish to accept Covid-19 injections are thus in a difficult position. The genesis of this form was to provide a tool for employees to use *within the context of emergency use authorization* with employers who attempt to mandate still-investigational Covid-19 injections (Scenario 1). With the possibility of full FDA approval in fall 2021 (Scenario 2), the legal context for U.S. mandates will likely shift in significant ways. *In the event of licensure, we will provide an updated form that reflects the altered regulatory circumstances.*

Under both scenarios, we anticipate that a form of this type will remain a critically important tool for employees determined to educate employers about the full set of physical and financial risks they are asking workers to incur. Employees should strongly consider reviewing the form with employers and also sharing it with co-workers. This could result in a positive outcome for employees and, if used widely, could be a game-changer.

# Scenario 1: Emergency Use Authorization

Many employers are trying to deny employees’ right to choose and their right to bodily integrity by requiring EUA Covid-19 vaccines as a condition of employment. Under EUA, however, such requirements are a violation of the law. (We anticipate that the Department of Justice opinion on the legality of EUA mandates should and will be challenged.) Mandates are also a violation of fundamental human and religious rights.

The provisions of the 2005 Public Readiness and Emergency Preparedness (PREP) Act and a February 2020 declaration by the U.S. Department of Health and Human Services (HHS) Secretary mean that

pharmaceutical companies cannot be held liable for injuries or deaths caused by EUA Covid-19 injections.**6** However, other companies, institutions, and individuals *can* be held liable.

On the grounds that the injections are under EUA and are not formally licensed, many health care providers are refusing service to individuals injured by the Covid-19 injections, and health and life insurance companies are declining coverage for vaccine-related injuries and deaths.**7** This denial of care and coverage poses a serious threat to the physical and financial well-being of employees presented with a requirement to get a Covid injection—perhaps even more so than the possibility of losing their job for not being vaccinated. Medical bills for vaccinated individuals with serious injuries have already exceeded $1 million in some cases.**8** Under the PREP act, the vaccine-injured may submit a claim to the Countermeasures Injury Compensation Program (CICP), but the CICP historically has rejected 92% of claims and has not yet compensated a single Covid injection claim.**9**

Reviewing this form with employers may open their eyes to the regulations in place and the liability they may face (that they may otherwise not be aware of). If an employee should decide to accept the required experimental Covid-19 injection, the form also provides a mechanism to insist on a signature from the employer’s representative that holds the company liable. If the employer’s representative refuses to sign the form, that may be an indicator of the company’s concerns about potential liability and should prompt an immediate discussion about how the employee can continue working for the company without being injected.

# Scenario 2: Full Approval

Before Covid-19, workplace vaccine mandates for adults were on a state-by-state basis and primarily focused on hepatitis B and influenza vaccination in health care settings, often allowing some accommodation for disability or religious beliefs.**10** Under a scenario of full FDA approval for Covid-19 injections, a broader cross-section of employers well beyond the health care arena will likely feel emboldened or pressured to impose workplace mandates.**11** Evoking the specter of “potentially severe” Covid illness, some commentators are suggesting that the process for granting medical or religious exemptions “may look a little different” (i.e., be more restrictive).**12**

If Covid-19 injections lose their EUA status and receive full FDA approval, they would no longer enjoy the liability protection conferred by the PREP Act. However, if the FDA extends full approval to children under age 18—as is widely anticipated**13**—and the Centers for Disease Control and Prevention (CDC) recommends Covid-19 injections for “routine administration” to children (or pregnant women),**14** manufacturers and health care providers will be protected from liability for Covid-vaccine-related injuries and deaths under the 1986 National Childhood Vaccine Injury Act (NCVIA).**15** From that point on, the only avenue available for compensation would be the notoriously stingy and difficult-to-navigate National Vaccine Injury Compensation Program (NVICP).**16**

**Notes**

1. The Solari Report. Family Financial Disclosure Form for Covid-19 injections. Mar. 1, 2021; updated Jul. 31, 2021. <https://pandemic.solari.com/family-financial-disclosure-form-for-covid-19-injections/>.
2. The Solari Report. Notice and Declaration of Parental Authority Requirement of Disclosure and Safety of Medical Treatment/s. Jun. 24, 2021. [https://home.solari.com/notice-and-declaration-of-parental-authority-requirement-of- disclosure-and-safety-of-medical-treatment-s/](https://home.solari.com/notice-and-declaration-of-parental-authority-requirement-of-disclosure-and-safety-of-medical-treatment-s/).
3. The Solari Report. Form for Students Attending Colleges or Universities Requiring Covid-19 Injections under Emergency Use Authorization. May 4, 2021; updated Jul. 28, 2021. [https://pandemic.solari.com/form-for-students- attending-colleges-or-universities-requiring-covid-19-injections/](https://pandemic.solari.com/form-for-students-attending-colleges-or-universities-requiring-covid-19-injections/).
4. Weiland N, Karni A. Biden predicts the F.D.A. will give final approval to a Covid vaccine by the fall. *The New York Times*, Jul. 21, 2021.
5. Pettypiece S. Vaccine mandates more likely once FDA grants full approvals, health experts say. NBC, Jul. 20, 2021.
6. Congressional Research Service. The PREP Act and COVID-19: Limiting Liability for Medical Countermeasures. Updated Mar. 19, 2021. <https://crsreports.congress.gov/product/pdf/LSB/LSB10443>.
7. Del Bigtree interviews 3 medical professionals incapacitated by Covid injections. *The Highwire*, Apr. 29, 2021. <https://www.bitchute.com/video/A4d8FB2cIBTc/>.

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