

MEMO FOR: All Service Members

SUBJECT: Know Your Rights About Mandatory Vaccines

1. The military, as of the writing of this does **not** have the legal authority to mandate an Emergency Use Authorized (EUA) vaccine absent a service member's informed consent. (See 10 USC §1107 and 1107a). Additionally, SECDEF memo says, "fully licensed." Comirnaty, the only fully licensed vaccine is not available as of the date on this memo. Commanders should question as to whether they are promulgating an unlawful order.

2. The current widely available vaccines are **not** "fully FDA approved." They are experimental and are only approved for "Emergency Use Authorization" (EUA). The approved vaccine is Comirnaty, **not** BioNTech. Comirnaty is not available.¹ If the vial does not say Comirnaty, it is still an experimental vaccine. Even the CDC has said BioNTech and Comirnaty are "legally distinct."

a) FDA Fact Sheet: "WHAT IF I DECIDE NOT TO GET COMIRNATY (COVID-19 VACCINE, mRNA) OR THE PFIZER-BIONTECH COVID-19 VACCINE? Under the EUA, it is your choice to receive or not receive the vaccine. Should you decide not to receive it, it will not change your standard medical care."

b) Informed Consent. Additionally, per the EUA law (§ 1107a), if there is an approved vaccine, experimental vaccines are unlawful to use. Under the EUA, they must provide informed consent, which allows you to refuse the vaccine (*See*, 21 U.S. Code § 360bbb-3(e)(1)(a)(ii)):

(ii) Appropriate conditions designed to ensure that individuals to whom the product is administered are informed—

(I) that the Secretary has authorized the emergency use of the product;

(II) of the significant known and potential benefits and risks of such use, and of the extent to which such benefits and risks are unknown; and

(III) 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.

3. Many commands are claiming Comirnaty and BioNTech are interchangeable. Not True. It is impossible to characterize BioNTech as being interchangeable with the Comirnaty approved vaccine until such time as the phase III clinical studies being conducted at this moment under the current IND/EUA regulations are completed. These tests are not scheduled for completion until 2025, at which time the contents of the drug may be re-tested to verify if the ingredients are the same, substantially the same or different. As such, at no time should the DOD or any other

¹ Emergency Use Authorization, at: <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.

agency presume that BioNTech is an approved drug; it is not and this is why it continues to carry the characterization of an Investigational New Drug for Emergency Use only.²

4. For the injections to be mandatory, the President himself must sign an Executive Order mandating the shot for service members and that has not happened. The mandate to the DoD civilian workforce is not the same.

5. Exemptions. Per **AR 40-562, para. 2** (a joint reg.), you can be exempt for medical reasons, religious reasons or possessing immunity. That is the law. Not sure why commanders and others, to include some misinformed AF doctors, would be spreading the rumor that it does not apply. The SECDEF tried to use word art to state that prior immunity is not the same as “fully vaccinated” and he’s right, they are not the same thing, yet the regulations allow for exemption due to *prior immunity*, which can also be obtained through Monoclonal Antibody therapy – a shot of antibodies from someone that had Covid and recovered.

6. Harassment. Are you being harassed or threatened to get this experimental vaccine? File an Article 138 claim against your command for harassment. Each service has a reg. outlining the requirements. Army is AR 27-10; AF is AFI 51-505, Navy is JAGMAN (search 138). Each service requirement is different, so do your research.

7. Remember though, they are following orders from the top. Information is your best weapon. Ask them this: if they got the vaccine and are therefore protected, why would they care what you do? They probably do not have answers. If you get the vaccine does that mean you will not get COVID? Nope! Does it mean you cannot spread it? Nope. Ask: why do those who have not had the vaccine have to be quarantined? Why do they have to wear a mask? Why? It is your body—get the facts and be informed. You protect the rights and freedoms of others. Know your rights.

8. If asked if you are refusing a direct order, the answer is no “I’m refusing an illegal order,” and claim either a religious exemption (if you feel as a matter of conscience you cannot take it) and/or if you had COVID and can prove that you did, claim exemption due to immunity. Remember, the SECDEF memo says the mandate applies to “fully licensed vaccines.” There are NO “fully licensed vaccines” currently available. You cannot comply with this order or mandate if they do not even have the vaccine the SECDEF is referring to.

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² See, “FDA Does a Bait and Switch with COVID Shots,” <https://lc.org/newsroom/details/082721-fda-does-a-bait-and-switch-with-covid-shots>.