

Dear Employer,

## **COVID-19 VACCINE**

We understand that you are considering mandating us, your employees, to be vaccinated against COVID-19 in order to retain our employment with the company. We also understand that you intend to make vaccination a prerequisite for future employment with the company. We wish to express our views in this regard.

We understand further that some members of staff feel threatened by the SARS-CoV2 (the "**Virus**"). Certainly older people and those with comorbidities are at risk. We also understand that the vaccines have been sold to us as the keys to the shackles that have been placed on our lives and that many just want to get out of the nightmare that our lives have become.

There are, however, reasons not to be fearful. All viruses attenuate over time and science dictates that COVID-19 will become less virulent over time. Although COVID-19 is a serious disease, the reality is that more than 99% of people who are infected survive. COVID-19 is a disease that disproportionately affects older people in our society making it easier to focus protection on those most at risk. The World Health Organisation ("**WHO**") puts the average infection fatality rate at 0.15%, but for people under 40, the risks are even lower. Whilst the vaccines' are less efficacious than initially hoped, they nevertheless seem to offer good protection to the vulnerable from death and hospitalisation. We also have vastly improved treatments for COVID-19 that are contributing to increasing survival rates.

Vaccines are also not a panacea. We will never be able to rid the virus from our world. We know that the virus circulates amongst animals and it is probable that it came to humans via animal transmission. Even if it were possible to vaccinate every person on the planet, we cannot vaccinate every susceptible animal. Moreover, vaccinated people can become infected and can pass on the virus to others such that the virus can continue to circulate amongst the vaccinated.

The vaccines are not approved drugs in South Africa. Only the Pfizer vaccine has received approval from the FDA and that in controversial circumstances. In South Africa, the authorisation is for 6 months only and any employee vaccination plan would need to be withdrawn if the state of disaster ends.

The initial trials that have been completed suggested that there were a number of serious short-term side effects. The list of short-term side effects is constantly being expanded as we learn more about the vaccines. There have been a number of worrying developments. More adverse events have been reported into government-run adverse events systems the world over from the COVID-19 vaccines than all other vaccines combined over the last 30 years. Whereas the spike proteins produced as a reaction to the mRNA vaccines were supposed to remain in the deltoid muscle, leakage to other parts of the body has now been shown. Notably, the production of spike proteins in receptors in the ovaries and testes (which was not contemplated by the manufacturers) could have an impact on fertility especially with regular doses of vaccine. This needs to be investigated. Incidents of heart inflammation in the young have exceeded expectations. The long-term impacts of the vaccines have not been measured. The manufacturers of the vaccines are indemnified against all liability for the vaccines, meaning that those who mandate them carry a higher burden of liability if there is a problem.

We acknowledge the arguments that vaccines have been around for many years and that some vaccines are mandated for travel. We note however that the mRNA vaccines that are in use in South Africa are a novel technology that cannot be compared with prior vaccines (some of which have been shown in the past to be unsafe). We also note that these are “leaky vaccines” being distributed during a pandemic unlike other vaccines currently in use.

In countries with high vaccination rates, there have been mixed results from the vaccines. The US CDC recently acknowledged waning immunity in the vaccinated and will soon require a third shot for people who were vaccinated more than 8 months previously. Most countries have not removed the restrictions imposed on daily life despite high vaccination rates. Even with 100% of the population vaccinated, outbreaks have occurred on ships and the main presumed function of the vaccines currently is to protect against severe disease.

Vaccines have never been mandated as a prerequisite for employment in South Africa. Our Constitution (including Sections 9 and 12 of the Constitution) protects against discrimination and guarantee the right to bodily integrity. On the other hand, the courts have affirmed that employers do not have the right to enquire as to employees' or prospective employees' status when it comes to the HI virus. HIV/AIDS is a far more devastating illness than COVID-19, as set out above, accordingly the protections afforded to HIV/AIDS patients can readily be inferred to apply to those persons who are not vaccinated against SARS-COV-2. Legal scholars have unanimously advised that it would not be legal to terminate an employee on the basis of a

refusal to disclose their vaccine status or on the basis that they were unvaccinated. Government has given reassurances that vaccines will never be mandated by law. Accordingly, the company would be exposing itself to significant liability were it to elect to do something never before done in South Africa.

We do not believe that it is consistent with the democratic ideals enshrined in the South African Constitution to compel employees to give up sovereignty over their own bodies in order to retain their employment. The right to make our own decisions about our health and bodies are basic human rights entrenched in international law and our Constitution. We believe that a decision to mandate vaccines will create a divisive corporate culture and that it will act as a barrier to retaining and attracting talent.

The vaccines appear to protect those who have taken them. Our vaccinated colleagues and clients are, therefore, protected. Even if it were true that the unvaccinated have a moral obligation to protect the rest of society, there is no scientific basis for compulsory vaccination given that the vaccines do not prevent transmission and that we cannot eliminate COVID-19. It is not the role of the employer to impose morals on the workforce through coercion.

In light of the above, we, as your vaccinated and unvaccinated employees, wish to advise you that we will not be disclosing our COVID-19 vaccination status to you and that we do not support and will resist any system that requires employees or prospective employees to be vaccinated. We see this as unacceptable in a democracy that has a history of controlling access to employment through discrimination and we cannot tolerate such a culture spreading in our company. We call on you, therefore, to join us in rejecting mandatory vaccine systems and in creating an inclusive culture at the company.