

CITY OF PHILADELPHIA

DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH

Report on public hearing held December 23rd, 2021
by the Philadelphia Board of Health Regarding Receipt of Public Comment on the Emergency
Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for
Individuals Working and Dining at Indoor Dining Locations

Submitted by:  _____

Department of Public Health
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Date: 1/4/2022

Approved by:  _____

Law Department
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Date: 1/4/2022

Report Concerning Public Comments on Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Individuals Working and Dining at Indoor Dining Locations

I. Procedural Background

The Board of Health (the “Board”) approved the Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Individuals Working and Dining at Indoor Dining Locations (“Emergency Regulation”) on December 14, 2021 at a public meeting by unanimous vote of the six members present.¹ Written public comment was accepted and considered by the Board prior to the vote. This Emergency Regulation was promulgated pursuant to the Mayor’s Executive Order No. 3-20 of March 11, 2020, entitled “Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus.” The purpose of the Mayor’s Declaration of Extraordinary Circumstance was to allow the City to promulgate emergency regulations that could take effect immediately when necessary to address the public health emergency posed by COVID-19.

The Department of Public Health (“PDPH”) submitted the Emergency Regulation approved by the Board of Health, and as also approved by the Law Department, to the Department of Records for publication on December 15, 2021. The Department of Records acknowledge receipt of the Emergency Regulation and published it as immediately effective on December 15, 2021.²

In connection with the Board of Health’s December 14, 2021 meeting, on December 14, 2021 PDPH received a request for a public hearing concerning the Emergency Regulation and the Board scheduled a hearing for December 23, 2021. PDPH notified the member of the public who requested the hearing of the public hearing. PDPH also published notice of the public hearing in the *Philadelphia Daily News*, the *Legal Intelligencer*, and on the City’s official website. The public hearing took place on December 23, 2021 at 4:00 PM via Zoom. Approximately ten (10) members of the public took part in the hearing.

II. Description of Emergency Regulation³

The Emergency Regulation requires workers and diners to have received a vaccine to protect against SARS-CoV-2 (“COVID-19”) to be present at an Indoor Dining Location, with certain limited exceptions. Starting January 3, 2022, Indoor Dining Workers must have received at least one dose of an Approved COVID-19 vaccine and starting February 3, 2022, must have received a Completed Vaccination Series. With respect to diners, effective January 3, 2022, individuals

¹ Cheryl Bettigole, MD, MPH; Tyra Bryant-Stephens, MD; Marla J. Gold, MD; Jennifer Ibrahim, PhD, MPH; Amid I. Ismail, BDS, DrPH, MBA; A. Scott McNeal, DO.

² A copy of the Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Individuals Working and Dining at Indoor Dining Locations, as adopted on December 14, 2021 and published by the Department of Records on December 15, 2021 is attached, as Exhibit A.

³ All capitalized terms used in this Section have the meanings defined in the Emergency Regulation, attached as Exhibit A.

twelve (12) years of age or older must have received a Completed Vaccination Series, and diners under twelve (12) years of age but over five (5) years and three (3) months of age must have received at least one dose of an Approved COVID-19 Vaccine, to dine at an Indoor Dining Location. Effective February 3, 2022, all individuals over five (5) years and three (3) months of age must have received a Completed Vaccination Series to dine at an Indoor Dining Location. Prior to January 17, 2022, the Emergency Regulation also gives businesses the option to accept a negative antigen or PCR test for COVID-19 within 24 hours from diners instead of requiring proof of vaccination.

III. Legal Authority

The Board is established under the Philadelphia Home Rule Charter (the “City Charter”) and is the primary authority for disease prevention and control in the City. City Charter §§ 3-901 5-301; Disease Prevention and Control Law of 1955, 1956, April 23, P.L. (1955) 1510, 35 P.S. § 521.1, et seq., (the “DCPA”) at § 3, 35 P.S. § 521.3. Pursuant to the City Charter, the Board is authorized to “[m]ake reasonable regulations, not contrary to any statute or ordinance, for the preservation and promotion of the health of the people of the City.” City Charter § 5-301. The Board has two independent sources of legal authority for promulgating regulations to prevent the spread of SARS-CoV-2 (“COVID-19”).

Under Chapter 6-200 of The Philadelphia Code, the Board is authorized to establish lists of communicable, reportable and quarantinable disease, and to implement various reporting and control measures to prevent the spread of such disease. Philadelphia Code §§ 6-201 through 6-206, and § 6-210. Authorized control measures include:

- the “quarantining of any person who is reasonably suspected of having or being exposed to any” communicable disease “in such manner as the Board may by regulation prescribe in order to protect the public health and prevent the spread of such disease[;]”
- prohibiting the “congregation of persons at . . . any public place where such measure is necessary to prevent the spread of such disease;”
- requiring “the immunization of any person against any communicable disease listed and designated by the Board as one against which immunization is effective[;]”
- and such other emergency epidemic control measures “as are necessary to prevent the spread of [a communicable] disease.”

Philadelphia Code §§ 6-201 through 6-206, and § 6-210.

Pennsylvania law separately authorizes the Board to implement “regulations relating to disease prevention and control, which are not less strict than the provisions of [the DCPA] or the rules and regulations issued thereunder by” the Pennsylvania Board of Health. 35 P.S. § 521.16(c). The Board’s authority under the DCPA is expansive. *See Pennsylvania Rest. & Lodging Ass’n v. City of Pittsburgh*, 653 Pa. 596, 632, 211 A.3d 810, 832 (2019) (holding that

ordinance requiring paid sick leave was authorized under 35 P.S. § 521.16(c) because it was “related to disease control and prevention”).

Section 8-407 of the City Charter provides the procedural requirements for promulgating regulations. Ordinarily, a City regulation must be filed with the Department of Records and a period of thirty days must pass before a regulation can be effective. Charter § 8-407(a). If a hearing is requested on the regulation, the hearing must be scheduled and a report on the hearing must be filed with the Department of Records. The regulation is not effective until ten days after the report is filed. City Charter § 8-407(c). Therefore, under ordinary procedure, a regulation cannot be effective until at least thirty days after it is filed; if a hearing is requested on the regulation, realistically, with the time needed to schedule a hearing and prepare and then approve a report on a hearing, a regulation would not be effective until 45-60 days after it is originally filed.

The City Charter specifically provides, however, that when the City is experiencing an “emergenc[y] affecting the public health or safety” the Mayor may suspend the requirements of the section to allow temporary regulations to be put into force, provided that such regulations may not remain effective unless the procedures of Section 8-407 “are complied with forthwith.” City Charter § 8-407(c). On March 11, 2020, the Mayor issued Executive Order No. 3-20, entitled “Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus” to suspend the requirements of Section 8-407 to allow regulations “pertaining to the threat of the spread of COVID-19” to go into effect immediately upon the delivery of such regulations to the “Department of Records for public notice of such filing” while the remaining procedures required by Section 8-407 are followed.⁴ Promptly providing the requested hearing and the rapid preparation and filing of this report constitute the PDPH’s carrying out of these requirements.

IV. December 23, 2021 Hearing

Six representatives of the Board⁵ and one member of the City’s Law Department⁶ appeared at the December 23, 2021 hearing.⁷ Approximately 10 members of the public attended. The following individuals testified⁸: Daniel Auerbach, Esq. of Gamburg & Benedetto; Lynn Landes, Founder of HealthAlertPhilly; Dustin Luchmee; An Bop; Frank Pater; Christina Sloat of Nano-Neurotechnology Awareness Project; Hayat Ali; Linda Toscano; and Daniel Raso-Llaras.

V. Responses to Testimony and Written Comments

The Board heard testimony from nine (9) individuals at the December 23, 2021 hearing and received eighteen (18) written comments. Some of the individuals who provided oral

⁴ The Declaration of Extraordinary Circumstance is available at: <https://www.phila.gov/media/20210602145104/executive-order-2020-03.pdf>; *see also* <https://www.phila.gov/media/20200612221725/Regulatory-Process-COVID19-Proclamation.pdf>.

⁵ Cheryl Bettigole, MD, MPH; Marla J. Gold, MD; Jennifer Ibrahim, PhD, MPH; Amid I. Ismail, BDS, DrPH, MBA; A. Scott McNeal, DO; John Rich, MD, MPH

⁶ Jo Rosenberger Altman, Senior Attorney, Legislation & Legal Counsel Unit

⁷ A transcript of the 12/23/2021 Board of Health Public Hearing is attached, as Exhibit B.

⁸ Affiliations are as provided.

testimony also submitted written testimony and some individuals provided multiple written comments. Responses to the Oral Testimony in Section A should be also be considered Responses to Written Testimony that appears in Section B if the subject matter is applicable.

A. Oral Testimony⁹

1. Testimony of Daniel Auerbach, Esquire¹⁰

- Adoption of the Emergency Regulation is not lawful under the City Charter and the City Code. The Board of Health has not mandated vaccination under Section 6-210 of the Philadelphia Code, under which it might have such power.
- The Board has mandated restaurants verify the vaccination status of their customers and mandated that customers show papers to prove their vaccination status to enter restaurants. This is not a power that exists under the City Code. Your powers are limited to what City Council gave to you and you have exceeded them without a vote of City Council. Only City Council can adopt this measure and it has not done so.
- The process by which the Board adopted the Emergency Regulation is unlawful.
- I disagree that a public health emergency exists to suspend the requirements of Section 8-407. Annotation 11 to Section 8-407 states that thirty-day (30) notice can be suspended only if there is an emergency that could cause disaster.
- The effective date for all provisions of the Emergency Regulation is January 18, 2022. This measure was announced thirty (30) days before January 18, 2022, demonstrating that there is no disaster because there could have been a 30-day period for comment.
- The Declaration of Emergency by the Mayor has been in effect since March 11, 2020. When is the emergency going to stop? When will there be a return to normalcy in terms of process and procedure?
- The Emergency Regulation allows proof of vaccination without regard to the date of vaccination. Medical studies have shown that the vaccine is not going to prevent transmission ten months after it is administered.
- The Board has not considered natural immunity.
- This Emergency Regulation requires people to “show papers” about daily life. We don’t do that in America.
- The Board has not done a cost-benefit analysis of the public health benefits.
- The exceptions in the Emergency Regulation, such as being able to go into a restaurant to pick up take-out food if you are unvaccinated, are not supported by evidence.
- It is unconstitutional for the Emergency Regulation to apply to private homes with gatherings of more than 25 people.
- The Emergency Regulation is not designed to serve the public health.

⁹ The oral testimony of each commentator has been summarized in bulleted format below. For a full, verbatim transcription of this oral testimony to the Board on 12.23.2021, please see Exhibit B.

¹⁰ Mr. Auerbach also submitted two letters regarding the Emergency Regulation to the Law Department. These letters are attached, as Exhibit C.

- It violates the City Code, the City Charter, the Pennsylvania Constitution, commonsense, and basic decency.
- The Emergency Regulation “tries to build a segregated society where people who don’t obey what this Board does or what public health authorities demand is rendered unclean and not fit to go about their daily life, not fit to go about their business and excluded from everything else.” There is no rationale for that.
- This Emergency Regulation will not have a huge benefit such as saving thousands of lives. There is almost no benefit, if any, of this measure.
- I request the Board get rid of the Emergency Regulation in its entirety.
- If the Board is going to keep the Emergency Regulation, then it should tell the public the rationale for it. Tell the public what evidence was relied on. This will allow others to present evidence to show that the Board is wrong.

Response: Please see above in Section I (“Procedural History”), Section II (“Description of the Emergency Regulation”), and Section III (“Legal Authority”) for a description of Emergency Regulation’s requirements and the basis of Board’s legal authority to promulgate this Emergency Regulation.

Regarding the timing of the Emergency Regulation’s requirements, the Emergency Regulation took effect on January 3, 2022. The 2-week period until January 18, 2022 (during which the admission of customers who show results of a negative test done within 24 hours of entry is permitted) is optional. The period between the adoption by the Board and the effective date was necessary to allow time for businesses to prepare and for those employees who are impacted but who have not yet been vaccinated to get their first doses of vaccine. Had the Board of Health followed the ordinary process for the adoption of regulations, the vaccination mandate would have been delayed until, at the earliest, late January, long past the time when cases have been surging far beyond the rate of any previous period of the pandemic.

Current COVID hospitalizations in Philadelphia area hospitals have more than tripled since the end of November. The Omicron variant remains a serious concern. Average daily cases in Philadelphia have increased from 275 on November 24, 2021 to 2,256 on December 31, 2021.¹¹ This had led to an increase in hospitalizations in Philadelphia, with 222 COVID-19 hospitalizations on November 24, 2021 to 818 on December 31, 2021.¹²

With soaring case rates, there is a very real risk that even though the hospitalization rate (per infected person) appears to be somewhat lower with

¹¹ According to internally maintained statistics of the Philadelphia Department of Public Health, Philadelphia Average COVID-19 daily cases have increased as follows: 275 on 11/24/2021, 463 on 12/9/2021, 906 on 12/24/2021, 2,256 on 12/31/2021.

¹² According to internally maintained statistics of Philadelphia Department of Public Health, Philadelphia COVID-19 hospitalizations have increased as follows: 222 on 11/24/2021, 347 on 12/9/2021, 423 on 12/24/2021, 818 on 12/31/2021.

Omicron than with previous variants, hospitals could still be overwhelmed, given the far greater overall numbers of infections, leading to the inability to treat a wide variety of treatable conditions and substantially higher death rates across the city. Thomas Jefferson University Hospital has moved to a virtual hospital command structure due to the large number of patients hospitalized with COVID-19 infection and the small (<10%) remaining number of open beds.¹³

COVID-19 vaccines are extremely [safe and effective](#)¹⁴ at both preventing cases of COVID-19 and at preventing hospitalizations and deaths. Although people who have had COVID-19 previously may have some natural immunity, [that immunity is not consistent and is considerably lower](#)¹⁵ than the level of protection after vaccination.

Although vaccine efficacy against the newer Omicron variant is lower than that of previous variants, people who are vaccinated are still facing far lower odds of hospitalization and death than those who remain unvaccinated. According to [data from South Africa](#)¹⁶ and the [UK](#),¹⁷ COVID vaccines do protect against hospitalization. Having a booster provides more protection than the primary vaccine series. Philadelphia’s data from December 2021 shows a similar pattern: while more than 77% of adults in the city have been fully vaccinated, 68% of hospitalizations were among people who remain unvaccinated.¹⁸

Vaccine mandates have proved to be [very effective](#)¹⁹ at increasing vaccination rates. As of December 26, 2021, the vaccination rate for Black Philadelphians over age twelve and older was fifty-seven (57) percent.²⁰

¹³ Emailed communication, Shane Flickinger, VP of Operations, Thomas Jefferson University Hospital, December 21, 2021.

¹⁴ “COVID-19 Vaccines are Effective,” Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html>. Last Updated December 23, 2021 (visited December 29, 2021).

¹⁵ Bozio CH, Grannis SJ, Naleway AL, et al. Laboratory-Confirmed COVID-19 Among Adults Hospitalized with COVID-19–Like Illness with Infection-Induced or mRNA Vaccine-Induced SARS-CoV-2 Immunity — Nine States, January–September 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:1539–1544. DOI: <http://dx.doi.org/10.15585/mmwr.mm7044e1>.

¹⁶ Shirley Collie and Jared Champion, “Investigating the Pfizer COVID-19 vaccine’s real-world effectiveness in the Discovery Health administered medical scheme member base,” *Discovery Health*, November 3, 2021, available at <https://www.discovery.co.za/corporate/health-insights-vaccines-real-world-effectiveness> (visited January 3, 2022).

¹⁷ James Gallagher, “Omicron: Three vaccine doses key for protection against variant”, *BBC News*, December 10, 2021, available at <https://www.bbc.com/news/health-59615005> (visited December 29, 2021).

¹⁸ Philadelphia Department of Public Health internal data available at <https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/data/testing/>.

¹⁹ Albarracin, D., Jung, H., Song, W. *et al.* Rather than inducing psychological reactance, requiring vaccination strengthens intentions to vaccinate in US populations. *Sci Rep* 11, 20796 (2021). <https://doi.org/10.1038/s41598-021-00256-z>.

²⁰ Philadelphia Department of Public Health COVID Dashboard available at <https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/data/vaccine/>.

Regarding the exceptions for take-out food, brief entry to pick up takeout or to use a restroom is allowed because of the both the short time period and because those entering for these purposes can remain masked. While mask use has been protective, people are unable to mask while eating and drinking. Hence a requirement for vaccination in these sites allows for greater protection for both customers and workers. And [restaurant owners have largely been supportive](#)²¹ of the vaccine mandate for indoor dining, recognizing that it is a strategy that is better for them economically than closures and capacity limits and that it increases the confidence of diners who feel safer in an establishment that requires vaccinations.

The layering of multiple mitigation strategies is important to the prevention of COVID-19 infection. Vaccines are one important part of mitigation. Vaccines are available without cost to all Philadelphians. The [National Vaccine Injury Compensation Program](#)²² exists to provide compensation in the extremely rare case of a serious injury from vaccination.

2. Testimony of Lynn Landes

- There is currently no emergency, and there never has been an emergency, caused by COVID-19 for 99.9 percent of the population.
- This Emergency Regulation is bullying, tyranny, bribing and blackmailing people to do what the Board wants them to do, which is take the vaccine of which the ingredients people have no clue. This violates informed consent and the Geneva Conference.
- There is no pandemic exemption to the Bill of Rights. This Emergency Regulation violates the Bill of Rights and sets a horrible precedent.
- Mass vaccination and mass medication is an invitation to mass contamination and mass poisoning.
- The Board's mandates on businesses have created "an unnecessary chaotic environment where it is difficult, if not impossible, to function as a civil and sane society."
- The Board's mandate is an abrogation of the patient-doctor relationship.
- Why should CDC guidance be followed regarding COVID-19 and its variants when it has been proven that the NIH funded the gain-of-function Wuhan research, which caused the pandemic to begin with?
- For 99 percent of the population, there is no serious harm from COVID or any of its variants, particularly for the young, yet they are being mandated to take this vaccine and suffering serious injuries and death because of it.

²¹ Avram Hornik, *Philly restaurant owner: New vaccine mandate is good for everyone, Opinion*, The Philadelphia Inquirer, December 13, 2021, available at <https://www.inquirer.com/opinion/commentary/philadelphia-proof-vaccination-restaurants-owners-reaction-20211213.html>.

²² "National Vaccine Injury Program," Health Resources & Services Administration, available at <https://www.hrsa.gov/vaccine-compensation/index.html> (visited December 29, 2021).

- To date, there has been zero risk of death for Omicron and little risk of hospitalization.
- It appears that the pandemic is winding down. Why are mandates being passed now? It's very suspicious that this has to do with elections, not with health.
- There is no informed consent to vaccination when the ingredients of the vaccine are unknown, particularly when the vaccine manufacturers have requested the FDA keep the ingredients secret for 55 years.
- There have been no long-term studies of COVID vaccines, yet they are being mandated.
- There are serious side effects of the COVID vaccines being reported in VAERS (Vaccine Adverse Event Reporting System)
- Hospitals are filling up with the vaccinated, not unvaccinated.
- It has been reported that none of the vaccines have been actually approved for use by the FDA. People are still getting emergency use vaccines.
- The city will face a tsunami of lawsuits "because of illness and death due to the vaccines, but also because of loss of property, finances, all of that."
- Natural immunity is being completely ignored. If you're already naturally immune, getting the vaccine has its own serious side effects.
- CDC has deliberately and grossly inflated cases because their guidance says that COVID-19 should be reported on the death certificate for all decedents where the disease is caused or is assumed to have caused or contributed to death. That's how they got the 800,000 deaths. This guidance is then reversed for deaths due to the vaccine. This is criminal fraud.
- There is financial incentive to put people on ventilators and to give Remdesivir. This is a euthanasia protocol they are involved in and they get incentivized financially for it.

Response: COVID-19 vaccines are extremely [safe and effective](#)²³ at both preventing cases of COVID-19 and at preventing hospitalizations and deaths. Although efficacy against the newer Omicron variant is lower than that of previous variants, people who are vaccinated are still facing far lower odds of hospitalization and death than those who remain unvaccinated. With soaring case rates, there is a very real risk that even though the hospitalization rate appears to be somewhat lower with Omicron than with previous variants, hospitals could be overwhelmed, leading to the inability to treat a wide variety of treatable conditions and substantially higher death rates across the city. See Response to Oral Testimony 1 for data on recent increase in case rates and hospitalization rates.

²³ "COVID-19 Vaccines are Effective," Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html>. Last Updated December 23, 2021 (visited December 29, 2021).

3. **Testimony of Dustin Luchmee**

- I am a resident of South Philadelphia and a co-leader of Project Stand Together Philadelphia.
- I worked in medical research at Penn and Einstein Hospital for six years. If I was not transparent about the risks of the experiments I performed with my participants, I would be violating the Nuremberg Code.
- The City of Philadelphia is mandating vaccines without telling the risk of using the vaccine. The vaccine that is authorized right now is currently experimental as the Comirnaty is not available on the market.
- We are seeing that many people are having heart and neurological complication as well as dying from the receiving the vaccine.
- The mandates are based on stopping the spread. We know that the vaccine does not stop transmission, even though CDC Rochelle Walensky has perpetuated that lie as well as President Biden and Anthony Fauci.
- Anthony Fauci said in an interview with Mark Zuckerberg that the vaccine may actually make you more susceptible to infection of COVID-19.
- We are seeing from South Africa that the Omicron variant is not as bad as the American media is making it out to be. Omicron is actually something that we want the population to catch as the symptoms are very mild and people will likely not be hospitalized and they will gain natural immunity.
- The mandates ignore natural immunity and of people who have already recovered from COVID.
- People who have allergies to the vaccine or other predispositions for why the vaccine may be harmful for them are being ignored.
- By implementing these mandates, the Board is excluding people from society on the basis of their medical choice and their right to make their own medical decisions for their bodies.
- We live in a predominantly black city and only 11 percent of the black community of Philadelphia is fully vaccinated. These mandates are racist by excluding the black community from city activities. The black community has reasonable distrust in the medical community for experimentation and past crimes against humanity committed against them.
- These mandates are a crime against humanity. They are violating the Nuremberg Code, and by doing so you are acting as war criminal and would be tried as such as legal action would be taken.
- I hope that you reconsider and do not implement these mandates. There is no basis in science for using these mandates to help curb the spread. We are actually looking into a much milder version of COVID. We're likely to recover.
- It seems like this pandemic will never end as politicians have other goals for voting and for financial gains to keep it going on.
- If the Board cared about public health in Philadelphia, it would make therapeutics, such as Ivermectin and Vitamin D, accessible to Philadelphians.

Response: As of December 26, 2021, the vaccination rate for Black Philadelphians age twelve years or older was fifty-seven (57) percent.²⁴ As noted above, the vaccines are safe and effective (see Response to Oral Testimony 2). The mandate allows for medical exemptions. Current COVID-19 hospitalizations in Philadelphia area hospitals have more than tripled since the end of November, so the Omicron variant remains a serious concern.

4. Testimony of An Bop

- The black community and black and local small businesses are taking the biggest hit with this coming mandate. A lot of them are not aware that the Board even hold meetings such as these where they can voice their concerns. They have no place to express that they will be directly affected by mandates such as these.
- The purpose of this mandate does not make up for the fact that these businesses may be losing customers, losing money, losing jobs, and losing their way to fend for themselves.
- Last year there was focus on the black community's disenfranchisement and now it is being ignored that these people may be suffering and the Board is not directly talking to them and asking them if they are being negatively impacted.
- How will the Emergency Regulation be enforced? It could cause more problems than solutions.
- The restaurants are not the problem. I think people are able to weigh their own safety themselves. If they feel confident, if they have natural immunity, they should be able to go into a restaurant, like they were in the beginning of the pandemic. There were not these rules in place at the beginning.

Response: The Black community of Philadelphia has been disproportionately impacted by the COVID-19 pandemic, with higher rates of hospitalizations and deaths. Many workers at places that serve food and drink are Black and face continued exposure to COVID-19 in their workplace. While mask use has been protective, people are unable to mask while eating and drinking. Hence a requirement for vaccination in these sites allows for greater protection for both customers and workers. See also Response to Oral Testimony 1 and 2.

5. Testimony of Frank Pater

- Mandating vaccination in restaurants is ineffective and burdensome to an already struggling industry. It is more importantly highly immoral. This vaccine mandate should not be implemented.
- It is clear that COVID-19 is not going away. There have been reports recently of fully vaccinated and boosted people coming down with COVID-19, many of those have been in indoor settings where everybody in the building was vaccinated and sometimes masking. COVID-19 is continuing to spread, even when everyone is vaccinated and masked.

²⁴ Philadelphia Department of Public Health COVID Dashboard available at <https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/data/vaccine/>

- The only way to prevent restaurants from being a vector by which COVID can spread is to close them again completely.
- Multiple studies have confirmed that vaccinated people can catch and transmit the virus at the same rate as unvaccinated people.
- For the past four months, bars and restaurants have had to choose between either requiring vaccines or universal masking. Is there any data suggesting that the restaurants and bars that chose to require vaccines have had less COVID transmission than those requiring universal masking?
- The vaccines have been available for almost a year. Do we really think that any who has chosen at this point not to be vaccine is going to change their mind in order to go out to dinner?
- Even when people are vaccinated, they are still nervous.
- The restaurant industry is clearly struggling due to last year's shutdown and ongoing hesitancy of the public to go out to eat as it is. There are help wanted signs everywhere in the city.
- It's obvious there is a shortage of workers. Burdening restaurants with these additional recordkeeping requirements and limitations on staff and customers are going to continue to force industry decline. Tourists will avoid the city.
- The Emergency Regulation will not slow the spread of COVID at all. This is a lose-lose proposition. Forcing businesses to discriminate when they don't want to is going to further encourage their owners to shut down or leave.
- The Emergency Regulation is unethical. It is formally segregating societies by codifying discrimination against a group of people into city regulation. The low vaccination rates among minority and marginalized communities have been mentioned. It's very immoral to bar a class of people from public accommodations based on personal medical decision regarding a brand new class of medicines, the long term effects which can't possibly be known.
- I request that you reverse your decision.

Response: Vaccine mandates have proved to be [very effective](#)²⁵ at increasing vaccination rates. As of December 26, 2021, the vaccination rate for Black Philadelphians over age twelve and older was fifty-seven (57) percent.²⁶

COVID-19 vaccines are extremely [safe and effective](#)²⁷ at both preventing cases of COVID-19 and at preventing hospitalizations and deaths. Although efficacy against the newer Omicron variant is lower than that of previous variants, people who are vaccinated are still facing far lower odds of hospitalization and

²⁵ Albarracin, D., Jung, H., Song, W. *et al.* Rather than inducing psychological reactance, requiring vaccination strengthens intentions to vaccinate in US populations. *Sci Rep* **11**, 20796 (2021). <https://doi.org/10.1038/s41598-021-00256-z>.

²⁶ Philadelphia Department of Public Health COVID Dashboard available at <https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/data/vaccine/>.

²⁷ "COVID-19 Vaccines are Effective," Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html>. Last Updated December 23, 2021 (visited December 29, 2021).

death than those who remain unvaccinated. With soaring case rates, there is a very real risk that even though the hospitalization rate appears to be somewhat lower with Omicron than with previous variants, hospitals could be overwhelmed, leading to the inability to treat a wide variety of treatable conditions and substantially higher death rates across the city. See also Responses to Oral Testimony 1 and 2.

6. Testimony of Christian Sloat

- Various comments about masking.
- We should be demanding that federal agencies require more of pharmaceutical companies mandating that they share their intelligence on nanotechnologies and demanding that companies that manufacture and disseminate nanotechnology into any injective project should be required to label a product with its shape.
- There was a rumor that some of the vaccines included graphene. Most modern-day vaccines do include or involve nanotechnologies. Nanotechnologies are not malicious in and of themselves. The question is what type of technologies are there and why are they there?
- If you really feel like an airborne virus is the issue, then use the mask yourself. But please remember that it's not the best for everyone.
- I believe that there should be choice. I don't feel a public mandate on this issue was ever warranted, but I think particularly now we can see that there is always going to be a new reason, a new virus, a new fear or scare coming from biotech and pharma.

Response: Response: Masks are an [effective mitigation strategy](#)²⁸ against COVID-19. The discussion above of nanotechnologies falls outside of the scope of this Emergency Regulation.

7. Testimony of Hayat Ali

- I moved to Germantown about six months ago. She is scared by COVID. Business is going slow.
- I need advice from the neighborhood and from everyone because she is new to business and is fearful of what is going on.

Response: Acknowledged.

8. Testimony of Linda Toscano

- If you truly want to save lives, you should make a mandate requiring all doctors, hospitals, and pharmacies to allow early treatment of COVID using such things as Hydroxychloroquine, Vitamin D, IV Vitamin C, etc. This is what would make Philadelphia death numbers go down and set an example for the nation.

²⁸ Jeremy Howard, Austin Huang, Zhiyuan Li, Zeynep Tufekci, Vladimir Zdimal, Helene-Mari van der Westhuizen, Arne von Delft, Amy Price, Lex Fridman, Lei-Han Tang, Viola Tang, Gregory L. Watson, Christina E. Bax, Reshama Shaikh, Frederik Questier, Danny Hernandez, Larry F. Chu, Christina M. Ramirez, Anne W. Rimoin Proceedings of the National Academy of Sciences Jan 2021, 118 (4) e2014564118; DOI: 10.1073/pnas.2014564118. Available at <https://www.pnas.org/content/118/4/e2014564118> (visited December 29, 2021).

- Have you done research other than the mainstream propaganda? Lots of good people have followed tyrannical governments before.
- We aren't allowed to use medications that will help us if we do get COVID. You can't buy them. You have to get them online from other states.
- I'm 68 years old. I had COVID. I got Hydroxychloroquine through moving heaven and earth and every symptom was gone in 24 hours.
- Mandates that close restaurants will do nothing. Have a mandate that actually means something.

Response: None of the treatments listed above are evidence-based. All have been studied and found not to be beneficial for treating COVID-19. For specifics, see this [Cochrane Review](#)²⁹ of hydroxychloroquine for treatment of COVID-19, [information from the Mayo Clinic](#)³⁰ on Vitamin D, and [information from the National Institutes of Health](#)³¹ on IV Vitamin C. See also Responses to Oral Testimony 1 and 2.

9. **Testimony of Daniel Raso-Llaras**

- I continue to work only because I have medical exemption. I have chronic glomerulonephritis. I had a kidney transplant and I am immunocompromised.
- People are being told to take the vaccine without a proper risk assessment. People are taking the vaccine because it is supposed to be for the greater good. It's weaponizing love. The Board has a righteousness that gives you the expert notion that you know you're right. You may know if your heart of hearts you're not.

Response: COVID-19 vaccines are extremely [safe and effective](#)³² at both preventing cases of COVID-19 and at preventing hospitalizations and deaths.

B. Written Testimony³³

In addition to oral testimony provided at the Board's December 23, 2021 hearing, the Board received written comments on the Emergency Regulation submitted by email to Benjamin Hartung, Public Policy Advisor for the Division of Chronic Disease and Injury Prevention,

²⁹ "Is chloroquine or hydroxychloroquine useful in treating people with COVID-19, or in preventing infection in people who have been exposed to the virus?" Cochrane.org, March 25, 2021, available at <https://www.cochrane.org/news/chloroquine-or-hydroxychloroquine-useful-treating-people-covid-19-or-preventing-infection> (visited December 29, 2021) (citing Singh B, Ryan H, Kredo T, Chaplin M, Fletcher T. Chloroquine or hydroxychloroquine for prevention and treatment of COVID-19. Cochrane Database of Systematic Reviews 2021, Issue 2. Art. No.: CD013587. DOI: 10.1002/14651858.CD013587.pub2. Accessed 29 December 2021).

³⁰ William F. Marshall, III, MD, "Can taking a vitamin D supplement prevent infection with the virus that causes the coronavirus disease 2019 (COVID-19)?" Mayo Clinic, available at <https://www.mayoclinic.org/diseases-conditions/coronavirus/expert-answers/coronavirus-and-vitamin-d/faq-20493088> (visited December 29, 2021).

³¹ "Vitamin C," National Institutes of Health, April 21, 2021, available at <https://www.covid19treatmentguidelines.nih.gov/therapies/supplements/vitamin-c/> (visited December 29, 2021).

³² "COVID-19 Vaccines are Effective," Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html>. Last Updated December 23, 2021 (visited December 29, 2021).

³³ The written testimony reproduced in this Section was received by email. It is reproduced verbatim, with the exception that attempts were made to correct obvious grammatical errors for the purpose of creating a clear record.

Department of Public Health. The following individuals and entities submitted comment:³⁴ Suzie Tehan; Dr. Damien Ciasullo; Michael Greenberg; Laura Schroy; Anastasia Alexandrin; Sheila Pai; Dr. Lenny Roberts; Christy Walters; Linda Toscano; Linda Hough; Vincent Feldman of the Pennsylvania Chapter Children's Health Defense; Lynn Landes, Founder of Health Alert Philly; Christina Sloat of the Nano-Neurotechnology Awareness Project. The following is a reproduction of the written testimony submitted by the individuals listed above, along with the Board's responses.

1. Suzie Tehan

I am disturbed to hear about a possible vaccine mandate for all indoor workers and diners. I am so proud to live in PA, a state where people have choice and medical freedom. Mandating vaccines for diners and workers will have a significant and negative impact on the livelihood of both restaurant owners and restaurant workers. Mandating that people put anything into their bodies without their consent is just plain wrong. Telling people that they must unwillingly take a drug or lose their livelihood is wrong. Furthermore, this vaccine is still experimental and it is not stopping people from getting COVID or spreading COVID. We do not and will not know much about the harm and consequences of this vaccine for many years to come. If it is not doing what it was designed to do (i.e., stop the spread of COVID and stop the recipient from getting sick), why is it even being considered that people should unwillingly be mandated to put an experimental drug into their bodies? Is the state of PA willing to accept all the costs (financial, physical, mental, emotional) for all vaccine-related injuries?

Response: COVID-19 vaccines are extremely safe and effective³⁵ at both preventing cases of COVID-19 and at preventing hospitalizations and deaths. Although efficacy against the newer Omicron variant is lower than that of previous variants, people who are vaccinated are still facing far lower odds of hospitalization and death than those who remain unvaccinated. With soaring case rates, there is a very real risk that even though the hospitalization rate appears to be somewhat lower with Omicron than with previous variants, hospitals could be overwhelmed, leading to the inability to treat a wide variety of treatable conditions and substantially higher death rates across the city. The National Vaccine Injury Compensation Program³⁶ exists to provide compensation in the extremely rare case of a serious injury from vaccination.

2. Dr. Damien Ciasullo

To whom it may concern,

³⁴ Affiliations are as provided.

³⁵ "COVID-19 Vaccines are Effective," Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html>. Last Updated December 23, 2021 (visited December 29, 2021).

³⁶ "National Vaccine Injury Program," Health Resources & Services Administration, available at <https://www.hrsa.gov/vaccine-compensation/index.html> (visited December 29, 2021).

I am writing to voice my adamant opposition to the proposed plans of mandating Covid Vaccines for those who work in or are patrons of restaurants.

I will keep my comments short:

1. This mandate does not work. One only needs to look at New York or Los Angeles and their rising cases to understand what science has known all along. Screening someone based on vaccine status does not stop the spread. Your group would need to answer why cases are soaring in NYC (covid passports used for months) Florida cases down 95%
2. These are a tool to segregate people. As a doctor in Philadelphia who daily serves a community of different races and socioeconomic classes, this mandate would absolutely discriminate against poorer and minority citizens of our city. It is classist and racist!
3. It completely ignores the science of natural immunity. For your reference I am attaching a link to over 140+ (ONE HUNDRED FORTY) scientific, referenced articles that speak to the robust, complete, and durable immunity of those members of our community that have contracted SARSCov2 and now have long lasting possibly lifetime immunity. (Sars Cov 1 survivors still show immunity 17 years later!!)

<https://brownstone.org/articles/79-research-studies-affirm-naturally-acquired-immunity-to-covid-19-documented-linked-and-quoted/>

4. This will push people from dining and entertainment in our city toward the suburbs. I am quite content to dine at places that do not require me to show a passport for a vaccine that does not stop transmission of a virus. I am perfectly content to NEVER dine in Philadelphia or attend a professional sports game again if this bill is passes.
5. As a lifetime Democrat I am ashamed that my party continually seeks draconian mandate after mandate that do not have scientific backgrounds, or evidence that they work to divide people and seek to limit rights and freedoms. Wow, the definition of being a liberal have sure changed in the last few years. I am not alone in this. You are driving Democrats away with this messaging.

I am happy to debate ANY official with my qualifications or higher on the efficacy of this mandate as long as it is livestreamed for the public to watch. I will donate \$1000 to a homeless shelter in Philadelphia for taking part.

I can be contacted for further information or to expand on any of the above rational at this email address.

Thank you

Response: COVID-19 vaccines are extremely [safe and effective](#)³⁷ at both preventing cases of COVID-19 and at preventing hospitalizations and deaths. Although efficacy against the newer Omicron variant is lower than that of previous variants, people who are vaccinated are still facing far lower odds of hospitalization and death than those who remain unvaccinated. See also Responses to Oral Testimony 1 and 2.

3. Michael Greenberg

Please acknowledge that I am 100% opposed to these proposed mandates.

Response: Acknowledged.

4. Laura Schroy

There should be no mandate for Covid 19 vaccine to be able to enter buildings. That is plain and simple segregation and forced compliance to take a product that does not work.

Both vaccinated and non vaccinated can still contract and spread covid.

Israel is now on its 4th dose of the product that again - does not work.

Medical decisions must remain between a patient and their doctor. Not a person and the government.

Response: COVID-19 vaccines are extremely [safe and effective](#)³⁸ at both preventing cases of COVID-19 and at preventing hospitalizations and deaths. Although efficacy against the newer Omicron variant is lower than that of previous variants, people who are vaccinated are still facing far lower odds of hospitalization and death than those who remain unvaccinated. Vaccine mandates have also proved to be [very effective](#)³⁹ at increasing vaccination rates.

5. Anastasia Alexandrin

I would like it to be noted that I am against the passport mandate.

³⁷ “COVID-19 Vaccines are Effective,” Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html>. Last Updated December 23, 2021 (visited December 29, 2021).

³⁸ Id.

³⁹ Albarracin, D., Jung, H., Song, W. *et al.* Rather than inducing psychological reactance, requiring vaccination strengthens intentions to vaccinate in US populations. *Sci Rep* **11**, 20796 (2021). <https://doi.org/10.1038/s41598-021-00256-z>.

Response: Acknowledged.

6. Sheila Pai

Hello,

I am writing to express my sincere and deep disturbance and shock that Philadelphia - the city of brotherly love, the birthplace of our country founded on ideals of liberty and the place of so much segregational and historical violence and pain - would harbor, even for one second, the desire to bring back segregation, discrimination, supremacy and tyranny.

Knowing that 70% of African Americans are unvaccinated...

Knowing that 43.6% of Philadelphians identify as Black...

Knowing that healthy unvaccinated people do not carry a potential for infection or spread...

Knowing that vaccinated people CAN AND DO carry the potential for asymptomatic infection...

Knowing that restaurants have already been crushed by lockdown policies and Covid response restrictions and protocols...

Knowing that those restaurants can make their own choices about policies just as customers can choose to patronize an establishment whose policies match their values...

Knowing that the majority of cases are Omicron...

Knowing that Omicron has an 80-90% reduction in hospitalizations and is reportedly - worldwide - mild in symptoms and nonlethal generally...

There is NO scientific, constitutional or ethical backing for a mandate. Period. If you choose to implement this measure you are going against the science, against the constitution and against all basic ethics. You will hold the responsibility for further bankrupting the city of its economic and human resources along with driving a division of apartheid hate in our great city.

You must NOT allow this mandate to move forward.

Response: COVID-19 vaccines are extremely [safe and effective](#)⁴⁰ at both preventing cases of COVID-19 and at preventing hospitalizations and deaths. Although efficacy against the newer Omicron variant is lower than that of previous variants, people who are vaccinated are still facing far lower odds of hospitalization and death than those who remain unvaccinated. Vaccine mandates have also proved to be [very effective](#)⁴¹ at increasing vaccination

⁴⁰ "COVID-19 Vaccines are Effective," Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html>. Last Updated December 23, 2021 (visited December 29, 2021).

⁴¹ Albarracin, D., Jung, H., Song, W. *et al.* Rather than inducing psychological reactance, requiring vaccination strengthens intentions to vaccinate in US populations. *Sci Rep* **11**, 20796 (2021). <https://doi.org/10.1038/s41598-021-00256-z>.

rates. And restaurant owners have largely been supportive⁴² of the vaccine mandate for indoor dining, recognizing that it is a strategy that is better for them economically than closures and capacity limits and that it increases the confidence of diners who feel safer in an establishment that requires vaccinations. See also Responses to Oral Testimony 1 and 2.

7. Dr. Lenny Roberts

Good evening,

I'd like to voice my opinion that I stand fir health care freedom of choice and oppose segregation of any group, class, race, etc. in our society.

Please do not require/allow passports

Thank you

Response: Acknowledged.

8. Christy Walters, Andorra 19128

As a long time resident of this amazing city, I strongly oppose this vaccine mandate to attend sporting events and indoor dining. In the birthplace of freedom, these measures are counterproductive and create distrust and animosity towards our city health officials. Vaccines do not stop the spread. There is plenty of science to support this and we're seeing it play out everywhere. These mandates are going to further decimate already struggling small businesses. There are many residents who can't even be vaccinated and you're forcing them out of public life and it's absolutely unacceptable.

My children's school had just 3 cases since September. Three in a 3.5 month period. They just finished their second vaccine clinic 1.5 weeks ago and there's already 9 cases! 9 in 1.5 weeks! There's no denying that the timing of the vaccination clinics and the rise in cases are not a coincidence. It's happening in schools all over this city. Stop pretending the vaccinated with COVID are ok to roam about in society but the unvaccinated must isolate from society. These policies are creating nothing but decisiveness in an already fractured city.

Stop the mandates in the birthplace of freedom, and stop the fear. As a public health office, the public has yet to hear from you any true promotion of health. When are you going to start promoting true healthy living by maintaining healthy weight, eating healthy foods and exercising? All this constant fear perpetuates stress for people, further reducing the body's immunity.

⁴² Avram Hornik, *Philly restaurant owner: New vaccine mandate is good for everyone*, *Opinion*, The Philadelphia Inquirer, December 13, 2021, available at <https://www.inquirer.com/opinion/commentary/philadelphia-proof-vaccination-restaurants-owners-reaction-20211213.html>.

I will take my business to the close boarding suburbs of this county- where being vaccinated isn't required to shop or dine at a business, or wear masks. Many businesses and restaurants in the surrounding suburbs are open for business with no restrictions. More people have moved out of this city than into it since this pandemic started. What you are doing is destroying this great city. People are tired of it. It's time to accept the fact that COVID is never going away and we have to live with it. Mandates and vaccines aren't going to stop it from spreading.

Response: COVID-19 vaccines are extremely [safe and effective](#)⁴³ at both preventing cases of COVID-19 and at preventing hospitalizations and deaths. Although efficacy against the newer Omicron variant is lower than that of previous variants, people who are vaccinated are still facing far lower odds of hospitalization and death than those who remain unvaccinated. Vaccine mandates have also proved to be [very effective](#)⁴⁴ at increasing vaccination rates. See also Responses to Oral Testimony 1 and 2.

9. Linda Toscano

This mandate makes no logical sense and is bad for Philadelphia.

Omicron is a mild disease. It may actually help us reach herd immunity. Your overreaction to this will further harm business in the city, and will harm many individuals.

Vax mandates are extremely unethical for the following reasons:

- 1) Violations of personal freedom;
- 2) Disregard for serious vaccine side effects, which are more common than with any previous vaccine;
- 3) Disregard for natural immunity, which many Philadelphians have and which is only true way to end the pandemic.
- 4) Disregard for possible long-term side effects, especially upon our children
- 5) Disregard for the ineffectiveness of the vaccine, which still allows for transmission and breakthrough cases.

If you impose this mandate, you will further harm this city, and you may indirectly harm many individuals, while helping no one. People who fear 'the unvaccinated' already have places they can go, due to the current mandate. That is more than enough.

⁴³ "COVID-19 Vaccines are Effective," Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html>. Last Updated December 23, 2021 (visited December 29, 2021).

⁴⁴ Albarracin, D., Jung, H., Song, W. *et al.* Rather than inducing psychological reactance, requiring vaccination strengthens intentions to vaccinate in US populations. *Sci Rep* **11**, 20796 (2021). <https://doi.org/10.1038/s41598-021-00256-z>.

Stop destroying the city please.

Response: COVID-19 vaccines are extremely [safe and effective](#)⁴⁵ at both preventing cases of COVID-19 and at preventing hospitalizations and deaths. Although people who have had COVID-19 previously may have some natural immunity, [that immunity is not consistent and is considerably lower](#)⁴⁶ than the level of protection after vaccination.

10. Linda Toscano

<https://www.ucdavis.edu/health/covid-19/news/viral-loads-similar-between-vaccinated-and-unvaccinated-people>

The above article is based on a study done by scientists at the University of California.

Response: The article cited above does show similar viral loads among people who test positive for COVID-19 who are vaccinated and unvaccinated. But it also notes that “Vaccines have been shown to be highly effective in preventing severe disease, hospitalization and death from COVID-19. For example, as of mid-September, 41 out of 49 patients hospitalized with COVID-19 at UC Davis Medical Center in Sacramento were unvaccinated.” It further notes that “vaccinated people with a breakthrough infection are much less likely to become severely ill than unvaccinated.” Vaccines have been shown to reduce the death rate⁴⁷ from COVID-19.

The below article references a study published in the Lancet.

Are you going to tell me that this is misinformation?

The real misinformation is what is coming from the government which is currently controlled by the pharmaceutical industry.

<https://peckford42.wordpress.com/2021/08/31/scientists-fully-vaccinated-carry-251-times-the-covid-viral-load-as-unvaccinated/>

⁴⁵ COVID-19 Vaccines are Effective,” Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/index.html>. Last Updated December 23, 2021 (visited December 29, 2021).

⁴⁶ Bozio CH, Grannis SJ, Naleway AL, et al. Laboratory-Confirmed COVID-19 Among Adults Hospitalized with COVID-19–Like Illness with Infection-Induced or mRNA Vaccine-Induced SARS-CoV-2 Immunity — Nine States, January–September 2021. MMWR Morb Mortal Wkly Rep 2021;70:1539–1544. DOI: <http://dx.doi.org/10.15585/mmwr.mm7044e1>.

⁴⁷ “COVID-19 Cases and Deaths by Vaccination Status,” Texas Department of State Health Services, November 8, 2021.

Response: This is misinformation through misuse of published research. It may be instructive to read [this response](#)⁴⁸ from the authors of the Lancet preprint article to the misuse and mischaracterization of their preprint article. They were noting the higher viral loads found in patients with the Delta variant compared to those with the original COVID-19 strain, *not* higher viral loads among people previously vaccinated. Please also see Responses to Oral Testimony 1 and 2.

11. Linda Toscano

If you truly want to save lives, you should make a mandate requiring all doctors, hospitals, and pharmacies to allow early treatment of Covid using hydroxychloroquine, Ivermectin, Vitamin D, IV Vitamin C, etc. This is what would make Philadelphia death numbers go down and set an example for the nation.

Have you done research other than the mainstream propaganda? How will history judge you? Lots of good people have followed tyrannical governments before.

Response: None of the treatments listed above are evidence-based. All have been studied and found not to be beneficial for treating COVID-19. For specifics, see this [Cochrane Review](#)⁴⁹ of hydroxychloroquine for treatment of COVID-19, [information from the Mayo Clinic](#)⁵⁰ on Vitamin D, and [information from the National Institutes of Health](#)⁵¹ on IV Vitamin C.

12. Linda Hough

Hi,

I'm writing to say I am against having vaccine mandates for dining or any business. This is discrimination based on medical decisions that each person is free to make. Not only is

⁴⁸ Nguyen Van Vinh Chau, MD, PhD, Guy Thwaites, MD, PhD, Le Van Tan, PhD, "Our preprint article 'Transmission of SARS-CoV-2 Delta Variant Among Vaccinated Healthcare Workers, Vietnam'", available at <http://www.oucr.org/our-preprint-article-transmission-of-sars-cov-2-delta-variant-among-vaccinated-healthcare-workers-vietnam/> (visited December 29, 2021).

⁴⁹ "Is chloroquine or hydroxychloroquine useful in treating people with COVID-19, or in preventing infection in people who have been exposed to the virus?" Cochrane.org, March 25, 2021, available at <https://www.cochrane.org/news/chloroquine-or-hydroxychloroquine-useful-treating-people-covid-19-or-preventing-infection> (visited December 29, 2021) (citing Singh B, Ryan H, Kredon T, Chaplin M, Fletcher T. Chloroquine or hydroxychloroquine for prevention and treatment of COVID-19. Cochrane Database of Systematic Reviews 2021, Issue 2. Art. No.: CD013587. DOI: 10.1002/14651858.CD013587.pub2. Accessed 29 December 2021).

⁵⁰ William F. Marshall, III, MD, "Can taking a vitamin D supplement prevent infection with the virus that causes the coronavirus disease 2019 (COVID-19)?" Mayo Clinic, available at <https://www.mayoclinic.org/diseases-conditions/coronavirus/expert-answers/coronavirus-and-vitamin-d/faq-20493088> (visited December 29, 2021).

⁵¹ "Vitamin C," National Institutes of Health, April 21, 2021, available at <https://www.covid19treatmentguidelines.nih.gov/therapies/supplements/vitamin-c/> (visited December 29, 2021).

it discriminatory, it also makes no sense since 80% of Omicron cases are among the vaccinated. They are the ones spreading it according to the CDC. There should never be mandates for medical decisions, whether you're vaccinated or not. Preserve freedom & allow restaurants and small businesses to allow anyone into their establishments.

Response: According to [data from South Africa](#)⁵² and the [UK](#),⁵³ COVID vaccines do protect against hospitalization. Having a booster provides more protection than the primary vaccine series.

13. Vincent Feldman, Pennsylvania Chapter Children's Health Defense

Dr. Bettigole and the Philadelphia Board of Public Health,

We deeply oppose the Philadelphia Department of Public Health's announced vaccine mandate for patrons and staff of all establishments that sell food or drink for on-site consumption. The measure is **boldly undemocratic**, as it was imposed by **unelected officials**, it was **sprung without warning or end point**, underwent **no debate or committee review** and was not accompanied by **documentation or justification** of its benefit for public health or **explanation of its medical and scientific validity**. As well as being undemocratic and unsound scientifically **it is abhorrent to our constitutional rights and our identity as Americans**.

Residents of Philadelphia and the State demand your office demonstrate the legal, medical and scientific justification for this order **or cease this order immediately**. An order to segregate, to divide our people into different classes and **force their separation into privileged and unprivileged groups is immensely dangerous** and will inevitably lead to **physical and psychological damage** and is being done without the presence of any actual emergency as Philadelphia hospitals are not beyond normal capacity for the season. All evidence from the country's who have already experienced the wave of Omicron have shown this variant to be the [weakest encountered](#) and some South African doctors are suggesting we use Omicron [as a vaccine candidate](#), one that would give long lasting immunity from infection. SA, which has only a quarter of its people vaccinated, has stopped track and trace and has seen hospitalizations fall as cases climbed. Additionally there is no evidence that the current vaccines offer any protection from the Omicron variant. Monoclonal antibody treatments [are already being withdrawn](#) as they target the original Sars-Cov2 strain and have been deemed useless against Omicron. You must ask the same question of the vaccine if you can find the courage to

⁵² Shirley Collie and Jared Champion, "Investigating the Pfizer COVID-19 vaccine's real-world effectiveness in the Discovery Health administered medical scheme member base," Discovery Health, November 3, 2021, available at <https://www.discovery.co.za/corporate/health-insights-vaccines-real-world-effectiveness> (visited January 3, 2022).

⁵³ James Gallagher, "Omicron: Three vaccine doses key for protection against variant", BBC News, December 10, 2021, available at <https://www.bbc.com/news/health-59615005> (visited December 29, 2021).

push against the Big Pharma/FDA cartel who's immense exercise of power is a real and broad danger to all Americans.

This City's creation of a government led category of “**other**” is profoundly disturbing and dehumanizing to people who see this as reminiscent of the worst periods in world history. Our city is already on the edge emotionally and psychologically and now this measure will **allow people to become accustomed to the thought that somebody can be stigmatized** and looked at as different, an untouchable, an unclean. Family and friends are being asked to divide their flock during the holiday season, a special time when our bonds are meant to be strengthened. Any mental health professional will attest to the fact that **social exclusion is one of the most painful and threatening events a person can experience**. [Social exclusion](#) has proven to cause higher **mortality and morbidity**, and we know [isolation and social exclusion](#) are **predictors of self harm and suicide**. Did your office conduct a **cost benefit analysis** with these facts in mind?

Why do this? We can find no discernable reason for this order as the vaccine products your office is vigorously promoting [do not confer immunity or protection from infection](#) from the Sars-CoV2 or its variants. Nor does this three shot protocol **prevent transmission**. To call them vaccines is a stretch. They were designed as a treatment to lessen symptoms if infected and there is no clear evidence that they can even achieve this when one is infected with the Delta and Omicron variants. Furthermore, observational evidence is showing that **these shots**, if working as designed, can **mask symptoms which can lead to higher infection rates** as the vaccinated have been shown to carry the [same viral load as those free of shots](#) but can often **not be aware they are infected**. Your office must demonstrate that this order is not just an abominable marketing tool to bully people into taking investigational medicines but an honest calculation formed from evidence of efficacy and need.

Please rescind this order before further harm is done.

Response: According to [data from South Africa](#)⁵⁴ and the [UK](#),⁵⁵ COVID vaccines do protect against hospitalization. Having a booster provides more protection than the primary vaccine series. See also Responses to Oral Testimony 1 and 2.

14. Frank Pater, Resident of City Council District 5

Hello,

⁵⁴ Shirley Collie and Jared Champion, “Investigating the Pfizer COVID-19 vaccine’s real-world effectiveness in the Discovery Health administered medical scheme member base,” Discovery Health, November 3, 2021, available at <https://www.discovery.co.za/corporate/health-insights-vaccines-real-world-effectiveness> (visited January 3, 2022).

⁵⁵ James Gallagher, “Omicron: Three vaccine doses key for protection against variant”, BBC News, December 10, 2021, available at <https://www.bbc.com/news/health-59615005> (visited December 29, 2021).

Thank you in advance for taking the time to hear my comments on this matter.

Mandating vaccination of diners at Philadelphia restaurants is ineffective, burdensome to an already struggling industry, and most importantly highly immoral. Therefore, the Department of Public Health should not implement a vaccine mandate for employees and diners at indoor restaurants in Philadelphia.

COVID-19 is clearly endemic and unavoidable at this point. Anyone paying the slightest bit of attention to news headlines in the past week knows that countless fully-vaccinated+boosted people have recently caught COVID-19, many of them in indoor settings where everyone was vaccinated and masking. Put plainly, COVID continues to spread, even in fully-vaccinated environments. Multiple studies have confirmed that vaccinated people catch and transmit the virus at the same rate as unvaccinated people. The only way to prevent restaurants from enabling the spread of COVID-19 would be to completely shut them down again.

For the past four (4) months, bars and restaurants have had the option of requiring either vaccines or masks. Is there any data suggesting that the establishments who chose the former have had less COVID transmission than those who chose the latter? The COVID vaccines have been available for almost a year now. Does anyone really think that people who've chosen not to take a vaccine will change their mind in order to be permitted to eat inside a restaurant? Given the passion with which the topic of vaccines is debated in every aspect of society, this seems highly unlikely.

Due to last year's shutdown, the restaurant industry is clearly still hobbled. Walking around the city, the huge number of Help Wanted signs make obvious the shortage of service industry workers -- in most places, there are more restaurants looking for staff than not. Burdening restaurants with additional recordkeeping requirements and limitations on staff and customers will further damage the hospitality/service and tourism industries in the city, by reducing both the potential employee and customer pools. Combined with the fact that it will not slow the spread of COVID, this is a lose-lose proposition: COVID will continue to spread, restaurants will continue to decline, and tourists will avoid Philadelphia. Further, forcing businesses who do not want to discriminate to do so further encourages them to shut down or leave the city.

Finally, it is horribly unethical to formally segregate society by codifying discrimination against of a group of people in a city regulation. The low vaccination rates of minority and marginalized groups notwithstanding, it is immoral to bar a class of people from public accommodations based on a personal medical decision regarding a brand-new class of medicines, the long-term effects of which cannot yet be known.

Everyone knows in their heart of hearts that this kind of segregation is wrong. On top of that is the fact that it just plain can't work. I appeal to your senses of humanity and reason, and respectfully request that the Department of Health reverse the decision to implement this regulation.

Thank you for your time.

Response: Vaccine mandates have proved to be very effective⁵⁶ at increasing vaccination rates. See also Responses to Oral Testimony 1 and 2.

15. Lynn Landes, Founder, www.HealthAlertPhilly.org, 19107

There should be NO mandates of vaccines, medication, masks, social distancing etc. under any circumstance:

1. The U.S. Constitution did not make any “pandemic” exception to our civil liberties.
2. Mass vaccination and medication is an open door to mass contamination and/or poisoning.
3. Issuing an endless series of mandates on the public, schools, businesses, etc., based on the virus of the month, has created an unnecessary chaotic environment where it is difficult, if not impossible, to function as a civil or sane society.
4. Mandates are an invitation to ‘abuse of government authority’ and interfere with the patient – doctor relationship.

That said, regarding COVID and its variants:

5. Why follow CDC guidance when it has been proven that the NIH funded the “gain of function” research that caused the COVID-19 pandemic? That is like letting known criminals run the Justice System.
6. For 99.9% of the population, there is no risk of serious harm from COVID or any of its variants. That is particularly true for the young, yet they are being mandated to be vaccinated, as well.
7. To date, there is ZERO risk of death from Omicron and little risk of hospitalization. It appears that this so-called “pandemic” are winding down
8. There has been NO INFORMED CONSENT, which is a violation of the Geneva Convention. No one knows what is in the vaccines, particularly not the Pfizer vaccines, whose corporate makers asked the FDA for 55 years before they would be required to release the ingredients. In fact, the vaccines themselves could be giving people the Delta and Omicron variants.
9. There are NO LONG-TERM STUDIES of any COVID-19 shots.

⁵⁶ Albarracin, D., Jung, H., Song, W. *et al.* Rather than inducing psychological reactance, requiring vaccination strengthens intentions to vaccinate in US populations. *Sci Rep* **11**, 20796 (2021). <https://doi.org/10.1038/s41598-021-00256-z>.

10. Serious side effects from the COVID vaccines are being reported to the VAERS system. Reportedly, the hospitals are filling up with the vaccinated, not the unvaccinated.
11. It has been reported that none of the vaccines being used have actually been approved by the FDA, but in fact are still for “emergency use” only. The vaccine that was FDA approved is not available, reportedly.
12. Natural immunity is being ignored. In fact, those who have already been infected with COVID should NOT be vaccinated, as that would cause serious adverse reactions.
13. The emphasis on “cases” based on PCR tests, that have been deliberately calibrated to produce an avalanche of false positives, has been used to scare the public into getting vaccinated. This constitutes criminal fraud.
14. The CDC has deliberately & grossly inflated “cases” and “deaths” due to COVID, statistically and through financial incentives, in order to promote dangerous vaccines. The CDC’s Guidance allows anything to be declared a COVID death: “COVID-19 should be reported on the death certificate for all decedents where the disease caused or is ASSUMED to have caused or contributed to death.”
15. Face masks are harmful to health as they decrease oxygen intake, increase carbon dioxide and can contain toxic chemicals and dangerous fibers that damage the lungs, brain, and other parts of the body.
16. The City of Philadelphia is setting itself up for massive lawsuits for death and personal injury, plus business losses, through the passage of these coercive mandates.
17. Studies and more information at www.HealthAlertPhilly.org

Response: More than 4200 Philadelphians have died from COVID based on death certificate and medical examiner records. See also Responses to Oral Testimony 1 and 2.

16. Christina Sloat

Thank you in advance for considering the needs of all Philadelphians; all must be welcome to enjoy life; respecting the right to bodily autonomy, and the right to have medical decisions remain private is important. I don't believe that the medical evidence has proven the need for vaccines, and most evidence suggests that masks are not appropriate in this situation. For some masks are not a precaution, but instead, work counterproductively; for children, masks are extraordinarily inappropriate and can impede physiological, psychological, and socio-emotional development, or . Despite how seemingly accustomed to them, they have become, children should not be allowed to wear them at all. For the elderly, and the disabled, despite how eager to please people have become, they should not be asked to wear them. Please acknowledge the rights of all to reject medical treatments, of which both masks and vaccines can be considered. One should not need either to join their family and friends in dining--to insist that anyone eat outdoors in the cold, is segregationist, and leaves the elderly, those with medical conditions, and children more at risk. Not only is asking for a vaccination card

inappropriate (being that vaccines should not be required), but they pave the way for the digital passports, which pave the way for digital passports, which leave important data in the hands of the unscrupulous, and leaves us all open to more tracking, stalking and surveillance; more stored data equals more data theft via hacking, or sneak-a-peek opportunities. Please restore Philadelphia's reputation as a city of "LOVE", or "brotherly love"; lead the way, in embracing all, and in requiring that all data remain appropriately private, keeping residents safer..."the only thing worth fearing, is fear itself", that, and going along with an unthinking crowd.

The need to regulate foods, bev. for nanotechnologies---the general public is largely unaware of the ubiquitousness of such technologies in foods; there is an increased need to better understand the contents of vitamins and pharma. as well---one cannot debate whether physiological health issues (such as "covid-19" symptoms, or adverse reactions to vaccines) or are caused by the presence of malicious nanotechnologies in food and beverages, if one is unaware that those technologies are there. If one is not aware that they are there, one cannot insist on their consumer rights i.e. better testing and regulation.

Regulation of nanotech in foods: <https://www.ami.swiss/en/seminars-news-events/news/22662/next>

Please see the attachment:

I made this sign a month ago--this sign, or something like it, is what should be on the doors of shops, restaurants, theaters, stores, law firms, and federal buildings.

I apologize--Due to having been poisoned during burglaries, and through other methods, I have neurological symptoms at unforeseen and unpredictable times--Despite, I do hope that my contribution to the discussion was understood and appreciated. Also, my image on Zoom is never quite accurate, and the poisonings have affected the bone and muscle tissue ("new" problem, like "Covid" is new), so I do hope that I was at least recognizable.

The following text is from the sign attachment referenced above in Christina Sloat's Comment:

WE DO NOT DISCRIMINATE AGAINST ANYONE, EVER, FOR ANY REASON.

WE RESPECT ALL, REGARDLESS OF GENDER, RACE, RELIGION, AGE, ABILITY, OR HEALTH CONDITION.

WE WILL NOT VIOLATE YOUR RIGHT TO BODILY AUTONOMY, OR PRIVACY.

WE DO NOT ASK ANYONE TO WEAR A MASK, EVER. WE DO NOT ASK FOR PRIVATE INFO ON YOUR VACCINATION HISTORY.

WE BELIEVE IN LOVE, TOLERANCE, COMPASSION, AND EMPATHY, FOR ALL.

ALL ARE WELCOME IN OUR ESTABLISHMENT.

Response: Masks are an effective mitigation strategy⁵⁷ against COVID-19. The discussion above of nanotechnologies falls outside of the scope of this regulation.

17. Lynn Landes, Founder, www.HealthAlertPhilly.org, 19107

Popular COVID Home Test Kit Contains Lethal Drug that is Fatal

SOURCE: <https://healthimpactnews.com/2021/popular-covid-home-test-kit-contains-lethal-drug-that-is-fatal/>

by Brian Shilhavy
Editor, Health Impact News

Greg Reese of Infowars.com recently published a report that reveals a lethal drug that is included in Abbott's BinaxNOW COVID-19 Home Test Kit has a history of killing people even in small doses.

The instructions for the test kit warn that this is a "hazardous" ingredient that is not to be touched, but that warning does not state that it could cause death or organ failures.

Greg produced this report as a warning for those who travel and may be rushed to take this test, which is authorized to be used with children as young as 2-years-old.

But since he published this report a few days ago, the Biden Administration has since stated that they are invoking the Defense Protection Act to spend \$3 BILLION to purchase and make available a half billion of these COVID home testing kits for all Americans.

⁵⁷ Jeremy Howard, Austin Huang, Zhiyuan Li, Zeynep Tufekci, Vladimir Zdimal, Helene-Mari van der Westhuizen, Arne von Delft, Amy Price, Lex Fridman, Lei-Han Tang, Viola Tang, Gregory L. Watson, Christina E. Bax, Reshama Shaikh, Frederik Questier, Danny Hernandez, Larry F. Chu, Christina M. Ramirez, Anne W. Rimoin Proceedings of the National Academy of Sciences Jan 2021, 118 (4) e2014564118; DOI: 10.1073/pnas.2014564118. Available at <https://www.pnas.org/content/118/4/e2014564118> (visited December 29, 2021).

Why would they include such a dangerous drug in these home test kits?

One obvious reason is that these test kits are NOT approved by the FDA, but only given emergency use authorization (EUA), so the manufacturer is not responsible for any “accidents” that might happen causing organ failure or death.

This is on our Bitchute channel as well as on our Telegram channel for easy download and distribution. The original source is here.

In addition to the obvious problems that these tests cannot possibly be accurate since the Omicron variant is fake to begin with, and that if used wrongly they have lethal consequences, the other problem is that you need to scan a QR code that is then sent to a “telehealth proctor” and now your private health information will no longer be private, but part of their database.

Response: The regulation does not require people who are vaccinated to test and does not require the use of any particular testing product for those who do test. The source cited is conspiracy theory website tied to a great deal of misinformation. It is not a source of reliable scientific information.

18. Christina Sloat

To The Philadelphia Board of Health,

Regarding masks, vaccines, and vaccine passports---please take the time to listen to these voices: "Covid-19" was a planned situation, but it is not something that requires vaccines

Watch them all---beyond the shallow, the deeper truths behind "Covid-19" is here---
Wolfgang Woldarg---Doctor, former Public Health Officer, former German Parliament Member and Council of Europe Member

<https://www.bitchute.com/video/SJgVrd0WmOB6/>
<https://odysee.com/@PlanetLockdown:6/Wolfgang-Wodard:e>

Michael Yeadon, Former Vice President and Chief Science Officer of Pfizer for 16 years.
Founder of successful pharma start-up.

<https://rumble.com/vg4inv-michael-yeadon-full-interview-planet-lockdown.html>

Catherine Austin Fitts, Former Investment Banker, Asst. Secretary Bush Sr. Admin,
Investment Advisor, Solari Inc.

<https://odysee.com/@PlanetLockdown:6/Catherine-Round-2-Edited:3>

I hope that you find them informative.

Response: The Board recognizes the submission of this request.

Written Comments Received via Zoom Meeting Chat

- **Following Comments Sent Via Zoom Chat During 12.23.2021 Meeting by Dustin Luchmee:**

- My comment is that COVID is endemic, the American public has accepted that. The mandates are based on stopping transmission, which the vaccines and masks are ineffective. We see a disparity in approach - states such as FL and TX have low infection rates while states such as NY, PA, IL have high infection rates.
- The Omicron variant originated from vaccinated populations, as people who are not vaccinated are unable to leave the country. The omicron variant is thankfully mild and people are 80% less likely to be hospitalized with this variant (Bloomberg). With previous variants, the survival rate of COVID-19 ranged from 95-99% depending on age. These mandates are not based in science, and instead are designed violate our right to privacy and medical freedom while ushering in medical apartheid.
- Businesses have ways to keep customers safe by using sanitation protocols and air filtration in their establishments. For medical treatment, we have a range of therapeutics to use to help people who have been infected.
- The people have been lied to about the vaccine by the CDC, WHO, and by President Biden. We were told it stopped transmission, it did not. We were told 1x of J&J or 2x of Pfizer or Moderna were enough to keep people safe and they would not harm us - this is not true. Proponents and enforcers of this are committing war crimes. We are not able to give informed consent if we are punished for our choices regarding our healthcare.
- The people need to know if there are financial incentives to implement these mandates. If any member of city council has investment in Pfizer, Moderna, J&J, Merck, etc, the people deserve to know.
- And those therapeutics are cheap. You can make them accessible to all people and end inequality in Philadelphia.
- Will the city agree to be responsible for any adverse reaction to the vaccine

Response: The layering of multiple mitigation strategies is important to the prevention of COVID-19 infection. Vaccines are one important part of mitigation. Vaccines are available without cost to all Philadelphians. As noted above, the [National Vaccine Injury Compensation Program](#)⁵⁸ exists to provide compensation in the extremely rare case of a serious injury from vaccination. See also Responses to Oral Testimony 1 and 2.

⁵⁸ “National Vaccine Injury Program,” Health Resources & Services Administration, available at <https://www.hrsa.gov/vaccine-compensation/index.html> (visited December 29, 2021).

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- Following Comments Sent Via Zoom Chat During 12.23.2021 Meeting by Lynn Landes:
 - o Here is an article I wrote several months ago regarding nanotechnology and control of our thoughts and actions through these vaccines. It's a real thing. -- <http://www.healthalertphilly.org/ControllingHumanityThruCovid.htm>
 - o You can get Ivermectin and hydro... from Frontline Doctors
 - o In addition, our water department does NOT filter for medications, so the questions is, "Are we getting exposed to the vaccines through our drinking water?"

Response: See Response to Comment 11 above.

- Following Comments Sent Via Zoom Chat During 12.23.2021 Meeting by An Bop:
 - o Also if there is any financial incentive to the hospital protocols in place.
 - o Small businesses deserve to be included in the conversation and spoken to directly to by the city.

Response: The Department of Public Health spoke with a variety of stakeholders from the business community prior to implementation of the regulation.

VI. Final Action

In order to clarify to whom the optional exception for testing prior to January 17, 2022 applies, the Board makes the following amendment to Section 2 of the Emergency Regulation (deletions in ~~strike-through~~; additions in **bold**):

Section 2. Limitations on Unvaccinated Individuals in Indoor Dining Locations.

* * *

(E) Optional Exception for Testing Prior to January 17, 2022:
Notwithstanding 6 any other provisions of this regulation, prior to January 17, 2022, a business may choose to accept proof of a negative PCR or antigen test for COVID-19 from a sample that was collected from ~~an individual~~ **a customer** within twenty-four (24) hours of the date of entrance to the Indoor Dining Location in lieu of requiring ~~an individual~~ **such customer** to provide a vaccination status or claim an exemption. This authorization expires on January 17, 2022.

A copy of the final Emergency Regulation, as amended, is attached hereto, as Exhibit D.

EXHIBIT A



**EMERGENCY REGULATION
GOVERNING THE CONTROL AND PREVENTION OF COVID-19
MANDATING VACCINES FOR INDIVIDUALS WORKING AND DINING AT
INDOOR DINING LOCATIONS**

WHEREAS, on March 6, 2020, in response to the 2019 novel coronavirus disease, COVID-19, the Governor of Pennsylvania issued a Proclamation of Disaster Emergency, and on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, or global epidemic; and

WHEREAS, on March 11, 2020, the Mayor issued a “Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus” to allow the City to promulgate emergency regulations on a shortened time frame in order to address the public health emergency posed by COVID-19, while the formal procedures for promulgating regulations pursuant to Section 8-407 are followed; and

WHEREAS, on March 12, 2020, the Board added COVID-19 to the City’s list of reportable and quarantinable diseases; and

WHEREAS, since March 12, 2020, the Board has promulgated and rescinded numerous disease control and prevention regulations as needed to address the ebbs and flows of the COVID-19 pandemic; and

WHEREAS, since the beginning of the pandemic there have been more than 18,800 COVID-19 hospitalizations and 4,000 COVID-19 deaths in Philadelphia; and

WHEREAS, case rates from November to current are rapidly rising, and Philadelphia has moved from a substantial transmission level of less than 99 COVID-19 cases per 100,000 people to an average of approximately 293 new COVID-19 cases per 100,000 people identified per day in Philadelphia, which places Philadelphia in the Centers for Disease Control and Prevention’s high transmission category (which includes any location over 100 or more cases per 100,000); and

WHEREAS, COVID-19 hospitalizations in Philadelphia hospitals have risen by more than 50% in the 2 weeks between November 26 to December 10, 2021, from 208 hospitalizations on November 26th, to 337 hospitalizations on December 10th, and 79% of COVID-19 hospitalizations were unvaccinated individuals; and

WHEREAS, the City’s post-Thanksgiving COVID-19 percent positivity rate peaked at more than three times its October rate heading into the Fall and Winter of 2020 and transmission is

expected to similarly increase as we head into the Winter of 2021; and

WHEREAS, there is substantial evidence that widespread mask use can prevent the spread of COVID-19, and observational data has suggested that people who wear masks and become infected may be less likely to develop severe disease; and

WHEREAS, inside activities, and in particular inside activities where individuals gather without masks and where individuals gather for extended periods, or both, increase the likelihood of the spread of COVID-19; and

WHEREAS, studies have indicated and public health experts have concluded that indoor dining is a significant driver of the COVID-19 pandemic, in part because it is not possible to wear a mask while eating or drinking; and

WHEREAS, safe, highly effective COVID-19 vaccines are now widely available in the United States; and

WHEREAS, administration of a COVID-19 vaccine is a medically accepted and recommended form of prophylactic treatment that dramatically reduces the likelihood of experiencing a symptomatic SARS-CoV-2 infection, and recent studies show that available COVID-19 vaccines also reduce asymptomatic infection and transmission; and

WHEREAS, COVID-19 vaccines are now readily available for all eligible individuals five years of age and older, while those four years of age and under remain ineligible for vaccination and therefore subject to greater exposure of infection and transmission; and

WHEREAS, it is well established that COVID-19 vaccines remain effective even against infection with the Delta variant and other recent variants of concern; and

WHEREAS, broad distribution and uptake of COVID-19 vaccines is essential to ending the COVID-19 pandemic; and

NOW, THEREFORE, pursuant to its authority under the Pennsylvania Disease Prevention and Control Law of 1955, Section 6-210 of The Philadelphia Code, Section 8-407 of the Philadelphia Home Rule Charter, and the Mayor's "Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus," the Board of Health hereby adopts the following emergency regulation, effective immediately upon delivery to the Department of Records, while the remaining procedures and formalities of Section 8-407 are followed to promulgate this as a formal regulation:

Section 1. Definitions.

Approved COVID-19 Vaccine. A vaccine that has been authorized or approved by either the Food and Drug Administration or the World Health Organization to prevent COVID-19, whether for emergency use or otherwise.

Completed Vaccination Series. An individual is considered to have received a Completed Vaccination Series when the individual has received the second dose in a two-dose series of an Approved COVID-19 Vaccine or a single dose in a one-dose Approved COVID-19 Vaccine.

Indoor Dining Location. Any location, whether open to the public or private, including personal residences, where food or drink is sold or served indoors for consumption onsite, except as follows.

The term does not include:

- (A) A location where only drinking water is served or permitted.
- (B) Early childhood education and K-12 schools.
- (C) Hospitals, congregate care facilities, or other residential or healthcare facilities.
- (D) Any location where food or drink is consumed as part of a religious practice.
- (E) A location where food or drink is sold by vending machine only and which does not contain a designated indoor eating area.
- (F) Any portion of a location that is outdoors, meaning the area is fully open to the outside on two or more sides, provided that entrance into any associated indoor food or drink service or eating areas are actively monitored to ensure compliance with this Regulation.
- (G) With respect to a business or commercial location where any indoor eating area is entirely segregated from other portions of the facility, the portion of the facility that is physically segregated from any indoor eating areas, provided that entrance into any such indoor eating areas are actively monitored by the business to assure compliance with this Regulation.
- (H) Food courts or markets, grocery stores, and airport facilities, except as specifically provided in subsection (B) of Section 2, below.
- (I) Food service locations that provide free food to those who may be homeless or in urgent need of food, such as soup kitchens.

Indoor Dining Worker. Any individual that works at an Indoor Dining Location in any capacity.

Section 2. Limitations on Unvaccinated Individuals in Indoor Dining Locations.

- (A) **General Rule - Businesses Serving or Providing Food at an Indoor Dining Location.**

Effective January 3, 2022, no business serving or providing food at an Indoor Dining shall allow any individual onsite at such location unless such individual meets the vaccination requirements set forth in this Section and in Sections 3 (Vaccination and Exemption Requirements for Indoor Dining Workers), 4 (Vaccination and Exemption Requirements for Customers and Other Non-Indoor Dining Workers), and 5 (Requirements for Athletes, Performers, and Supporting Staff), below, as applicable. In summary, and subject to applicable medical and religious exemptions as provided in the relevant sections identified below:

- **Indoor Dining Workers.** Effective January 3, 2022, such workers must have received at least one dose of an Approved COVID-19 Vaccine and, if applicable, effective February 3, 2022, must have received a Completed Vaccination. *See* Section 3, below.
- **Diners and other Non-Indoor Dining Workers Twelve (12) Years of Age and Over.** Effective January 3, 2022, such diners must have received a Completed Vaccination Series to dine at an Indoor Dining Location. *See* Section 4(A), below.
- **Diners 5 years and 3 Months of Age and Over but Under Twelve (12) Years of Age.** Effective January 3, 2022, such diners must have received at least one dose of an Approved COVID-19 Vaccine, and effective February 3, 2022, such diners must have received a Completed Vaccination Series to dine at an Indoor Dining Location. *See* Section 4(C), below.
- **Diners younger than 5 years and 3 months of age** are exempt from the requirements of this Regulation. *See* Section 4(C), below.
- **Athletes, performers, and supporting staff** are subject to the details of safety plans approved by the Department for the relevant facility. *See* Section 5, below.

Nothing in this regulation applies to individuals present at an Indoor Dining Location for a short duration (less than 15 minutes) for the purpose of picking up food to take out, using the restroom, or for a similarly short and transitory purpose, provided the individual is masked at all times.

This Regulation shall not preclude any business from establishing more strict vaccine requirements for its workforce, contractors, volunteers, customers or clientele, including requiring all persons onsite to be vaccinated (to the extent otherwise permitted under applicable law).

(B) Application to Specific Indoor Dining Locations.

(i) Onsite Dining at Grocery Stores, Food Courts, and Similar Locations.

With respect to food service at grocery stores that provide areas for dining on site; take-away food service at sports stadiums; food courts and markets, meaning locations containing multiple indoor food service locations providing food for take away service where general seating is provided for use by customers of any of the multiple food service locations; and similar locations; the vaccination requirements do not apply to take out only portions of such facilities – or to food

service locations that provide take out service only. The vaccination requirements of this Regulation shall only apply to the following locations in such facilities:

(.1) Any generally accessible seating area where food or drink can be consumed by customers. Such seating must be cordoned off and screening must be provided to prevent access to those who do not comply with the vaccination requirements required by this Regulation. Indoor Dining Workers serving such seating area must also comply with the vaccination requirements.

(.2) Any establishment in a grocery store, food court or market, or similar location that provides an indoor seating area that is used for dining associated with such establishment, such as seating at a counter served by the establishment or a seating area associated with an establishment at which table service is provided. Customers making use of such seating area and all workers at such establishment must comply with the vaccination requirements of this Regulation.

(ii) Onsite Eating Locations at Airport Facilities. With respect to food service and dining locations in airport facilities, the vaccination requirements of this Regulation do not apply to such facilities, except with respect to the following specific food service and dining locations:

(.1) Any location that provides a restaurant style indoor seating area that is used for the consumption of food or beverages sold by such establishment that is enclosed from other areas of the airport on three or more sides. Customers making use of such seating area and all workers at such establishment must comply with the vaccinate requirements of this Regulation.

(.2) Any establishment that provides seating at a bar-style service counter that is used for consumption of food or beverages sold exclusively by such establishment. Customers making use of such counter area and all workers at such establishment must comply with the vaccination requirements of this Regulation.

(C) Additional Testing Requirements for Indoor Dining Locations that Seat Over 1,000 Customers. Indoor Dining Locations that seat over 1,000 customers, such as sports and large entertainment venues, must require any unvaccinated individual over five (5) years and three (3) months of age that qualifies for an exemption or exception under Section 4(b) or (c) of this Regulation to submit proof of a negative PCR or antigen test for COVID-19 from a sample that was collected from such individual within the twenty-four (24) hours preceding such individuals' entrance into the Indoor Dining Location.

(D) Private Event Spaces and Homes. Effective January 3, 2022, no individual may host or permit a gathering of 25 (twenty-five) or more individuals at an Indoor Dining Location in any private place, including a residence, private club, church or other facility, unless all attendees either (i) have received a Completed Vaccination Series; or (ii) qualify for an exemption or exception under Section 4(b) or (c) of this Regulation.

(E) Optional Exception for Testing Prior to January 17, 2022: Notwithstanding

any other provisions of this regulation, prior to January 17, 2022, a business may choose to accept proof of a negative PCR or antigen test for COVID-19 from a sample that was collected from an individual within twenty-four (24) hours of the date of entrance to the Indoor Dining Location in lieu of requiring an individual to provide a vaccination status or claim an exemption. This authorization expires on January 17, 2022.

Section 3. Vaccination and Exemption Requirements for Indoor Dining Workers.

(A) General Rule – Indoor Dining Workers. No business serving or providing food at an Indoor Dining Location shall employ (including self-employ), contract with, or otherwise utilize the services of an Indoor Dining Worker after the relevant dates below unless such Indoor Dining Worker: (a) has been vaccinated in accordance with the following requirements; or (b) has received an exemption under Section 3(B), below, from such Indoor Dining Worker’s employer or the individual or entity that has engaged such Indoor Dining Worker’s services, and such worker complies with the accommodations adopted by the business for unvaccinated Indoor Dining Workers:

(i) Effective **January 3, 2022**, an Indoor Dining Worker must have received at least one dose of an Approved COVID-19 Vaccine.

(ii) Effective **February 3, 2022**, an Indoor Dining Worker must have received a Completed Vaccination Series.

(B) Exemptions and Accommodations for Indoor Dining Workers.

For the purposes of this Regulation only, and unless the business has adopted more strict requirements for its operations (subject to applicable law), a business subject to this Regulation shall grant an Indoor Dining Worker an exemption from the vaccination requirements of this Regulation if such individual qualifies for one or both of the exemptions below and agrees in writing to abide by the accommodation(s) required by the business serving or providing food at the Indoor Dining Location.

(i) Medical Exemption. For the purpose of this Regulation only, an exemption shall be granted if the business employing or otherwise engaging the services of the Indoor Dining Worker determines that the administration of any COVID-19 vaccine is contraindicated because the administration would be detrimental to the health of the Indoor Dining Worker. An Indoor Dining Worker shall request an exemption by submitting a certification from a licensed healthcare provider (meaning a physician, nurse practitioner, or physician assistant, licensed by an authorized state licensing board) that has provided an in-person physical examination of the Indoor Dining Worker on at least one occasion certifying that the exemption applies and stating the specific reason that the vaccine is contraindicated for the Indoor Dining Worker. Such certification must be signed by both the healthcare provider and the Indoor Dining Worker subject to the requirements and penalties of Section 1-108 of The Philadelphia Code and in substantially the same form as a sample certification that the Department shall make available on the Department’s website.

(ii) Religious Exemption. For the purpose of this Regulation only, an

exemption shall be granted if the Indoor Dining Worker certifies in writing that such individual has a sincerely held religious belief that precludes such worker from receiving the COVID-19 vaccination and that the worker understands that philosophical, moral, or other non-religious objections to receiving the vaccine will not be accepted. Such certification must be signed by the Indoor Dining Worker subject to the requirements and penalties of Section 1-108 of The Philadelphia Code and in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(C) Accommodations for Exempt Indoor Dining Workers: For the purpose of this Regulation only, each business serving or providing food at an Indoor Dining Location or at an Indoor Dining Location shall take steps to assure that each Indoor Dining Worker that has been granted an exemption under Section 3(B), above, is tested for COVID-19 on at least a weekly basis, and shall adopt one or more of the following accommodations for each such Indoor Dining Worker, provided that all individuals in such location must continue to wear face masks or other face coverings consistent with the June 15, 2021 Emergency Order Establishing Safety Measures for Full Reopening to Prevent the Spread of COVID-19, as it has been amended:

(i) Masking: Requiring the exempt Indoor Dining Worker to double mask indoors at all times while working. For the purpose of this Regulation, double masking means wearing a cloth mask tightly fitted over a properly fitted surgical mask or wearing a well fitted respirator equivalent to an N95.

(ii) Virtual accommodation: If feasible, allowing an Indoor Dining Worker to engage with the business through any manner such that the individual does not come into contact with other workers or customers of the business at any Indoor Dining Location.

(D) Documentation Required: Each business subject to this regulation shall maintain documentation of the vaccination status of each affiliated Indoor Dining Worker, any exemption requested by an Indoor Dining Worker under this Section, including all certifications submitted, whether or not such exemption request was granted and why, the accommodation or accommodations granted to each exempt Indoor Dining Worker, and records of ongoing COVID-19 testing for each exempt Indoor Dining Worker.

Section 4. Vaccination and Exemption Requirements for Diners and Other Non-Indoor Dining Workers.

(A) General Rule – Diners and Other Non-Indoor Dining Workers. **Effective January 3, 2022**, no business shall permit an individual who has not received a Completed Vaccination Series, including a customer, client, volunteer or employee of a contractor of the business (but not including an individual with respect to whom the provisions of Sections 3 (Indoor Dining Workers), above, or Section 5 (Athletes, Performers, and Supporting Staff), below, apply), to be present at an Indoor Dining Location operated by such business or where such business operates unless:

(i) The individual has received a religious or medical exemption under subsection (B), below, or is a child under 12 that is excepted or subject to a modified requirement under subsections (C), below; and

(ii) For Indoor Seating Locations that seat more than 1,000 people only, the unvaccinated individual is over five (5) years and 3 months of age, the individual has submitted a negative PCR or antigen test for COVID-19 from a sample that was collected from such individual within twenty-four (24) hours of the date of entrance to the Indoor Dining Location.

(B) Medical and Religious Exemptions. An individual may establish an exemption for purposes of this Section 4 by signing a certification as follows, subject to the requirements and penalties of Section 1-108 of The Philadelphia Code.

(i) Medical Exemption. For the purpose of this Regulation only, a certification signed by a licensed healthcare provider (meaning a physician, nurse practitioner, or physician assistant, licensed by an authorized state licensing board) who has conducted an in-person physical examination of the individual on at least one occasion certifying that receiving an any Approved COVID-19 Vaccine would be detrimental to the health of the individual and that the healthcare provider has medically advised the individual not to receive any Approved COVID-19 Vaccine. The certification shall include the signature, printed name, and contact information of the individual and the licensed healthcare provider and shall be in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(ii) Religious Exemption. For the purpose of this Regulation only, an exemption shall be granted if the individual certifies in writing that such individual has a sincerely held religious belief that precludes such individual from receiving any Approved COVID-19 Vaccine; and that the individual understands that philosophical, moral, or other non-religious objections to receiving the vaccine will not be accepted. The certification shall include the signature, printed name, and contact information of the individual and shall be in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(C) Exception and Modified Rules For Children Under 12.

(i) For the purpose of this Regulation and the requirements of this Section 4, an individual that is in an age group for which there is no Approved COVID-19 Vaccine, currently individuals under five (5) years of age, is not subject to the vaccination requirements of this Regulation until such individual has qualified for vaccination for at least three months. No certification shall be required to be submitted or maintained related to this age-based exception.

(ii) Prior to **February 3, 2022**, children five (5) years and three (3) months of age and older, but under twelve (12) years of age, are subject to a modified requirement and are excepted from the requirement to have received a full Completed Vaccination Series, so long as such child has received at least one dose of an Approved COVID-19 Vaccine at the time the child seeks to enter the Indoor Dining Location. This modified requirement expires February 3, 2022.

Section 5. Athletes, Performers, and Supporting Staff.

Athletes, performers, and supporting staff (such as coaches, trainers, road crew, and similar supportive staff) competing or performing at Indoor Dining Locations are not subject to this Regulation but must strictly comply with a safety plan approved by the Department for the facility at issue.

Section 6. Verifying Vaccine Status and Exemptions. Businesses governed by this Regulation may rely in good faith on (A) observably credible records of vaccination status provided by an individual, including Indoor Dining Workers, such as copies or pictures of a Center for Disease Control Vaccination Card or a state or authorized local government issued vaccination record; (B) a certification provided by an Indoor Dining Worker consistent with Section 3(B) or a certification provided by any other individual consistent with Section 4(B) of this Regulation. Individuals eighteen years of age or older must provide a photo identification card, or such other reliable form of identification identified by the Department in guidance, to establish identity consistent with the vaccine status and exemption documentation provided.

Section 7. Interpretation and Implementation:

(A) Stricter Regulation Permitted. Nothing in this Regulation prohibits any business, entity, or individual from implementing more stringent vaccine, masking, distancing or other or mandate on its customers or those it employs, contracts with, or engages in a volunteer capacity, whether or not such business or individual is covered under this Regulation, subject to all applicable law. Businesses choosing to impose more stringent requirements must comply with all other applicable laws, including but not limited to the Americans with Disabilities Act of 1990.

(B) Conflicts. Except to the extent of a direct conflict, this regulation shall be interpreted as consistent with applicable orders and requirements of the Commonwealth of Pennsylvania. In the event of a direct conflict, the most restrictive order or requirement controls. The City shall continue reviewing inquiries and submissions regarding the applicability of the City's orders to businesses and activities.

(C) Inspection Required. Each business serving or providing food at an Indoor Dining Location or at an Indoor Dining Location must allow inspection of records required to be maintained under Sections 3(D) and ongoing operations by the Department as a condition of operation. Copies of such records must be provided to the Department upon request. Any records inspected by or provided to the Department will be maintained confidentially consistent with the requirements of 35 P.S. § 521.15.

(D) Individual Liability. Falsely submitting certifications required by this Regulation shall be a violation of Section 1-108 of The Philadelphia Code.

(E) Penalties. Failure to comply with this Regulation shall result in orders to cease operations and the imposition of penalties, fines, license suspensions, and other remedies as provided for by law, including such penalties and remedies set forth in the April 29, 2020, Emergency Regulation of the Board of Health Governing the Control and Prevention of COVID-19 Pertaining to Fines and Penalties.

(F) **Duration.** This regulation shall remain in effect until rescinded, superseded or amended by further order or regulation.

(G) **Guidance.** The Department of Health is directed to promulgate guidance by order or otherwise to interpret and otherwise implement the requirements of this Regulation.

Section 7. Effective Date: This regulation is effective immediately upon the filing of this regulation with the Department of Records.

EXHIBIT B

CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH
BOARD OF HEALTH SPECIAL PUBLIC MEETING
December 23, 2021

Board members present:

Dr. Cheryl Bettigole, Commissioner

Dr. Amid Ismail

Dr. Marla Gold

Dr. Scott McNeal

Dr. John Rich

Dr. Jennifer Ibrahim

Also Present:

Benjamin Hartung, Public Policy Advisor

Jo Rosenberger Altman, Esquire

1 DR. BETTIGOLE: So I want to
2 welcome everybody to the public hearing on the
3 emergency regulation governing the control and
4 prevention of COVID-19 mandating vaccines for
5 individuals working and dining at indoor dining
6 locations.

7 We are going to begin with a
8 rollcall of the members of the Board of
9 Health who are here in attendance. So I'll
10 call each name and please answer aye if
11 you're here.

12 Dr. Amid Ismail. I think you
13 may be muted Dr. Ismail.

14 MR. HARTUNG: I apologize,
15 Dr. Ismail, go ahead.

16 DR. ISMAIL: I am here.

17 DR. BETTIGOLE: Thank you.
18 Dr. Marla Gold.

19 DR. GOLD: Here.

20 DR. BETTIGOLE: Dr. Scott McNeal.

21 DR. McNEAL: Here.

22 DR. BETTIGOLE: Dr. John Rich.

23 DR. RICH: Here.

24 DR. BETTIGOLE: Dr. Ana Diez Roux.

1 Dr. Jennifer Ibrahim.

2 DR. IBRAHIM: Here.

3 DR. BETTIGOLE: And Dr. Tyra
4 Bryant-Stephens.

5 So before we hear from the
6 public, I just want to note that the Board will
7 take the public comments that have been
8 submitted already, and those that we hear today
9 into consideration, and we will issue a report
10 indicating what, if any, changes will be made
11 to the regulation that has been adopted by the
12 Board at a future Board of Health meeting.

13 So with that, I'm going to turn
14 things over to Ben Hartung and to Jo in terms
15 of any details on how we are going to let
16 people comment. Could one of you fill in that
17 information?

18 MR. HARTUNG: Sure. Thank you
19 Commissioner Bettigole.

20 Good afternoon everyone, my name
21 is Ben Hartung and I'm the Public Policy
22 Advisor for the Division of Chronic Disease and
23 Injury Prevention with the Department of Public
24 Health. I'll be facilitating the public

1 comment process this evening.

2 As the Commissioner said, we are
3 accepting comment on the emergency regulation
4 governing the control and prevention of
5 COVID-19 mandating vaccines for individuals
6 working and dining at indoor dining locations.

7 The way that we want to proceed
8 is that if you could please leave in the chat
9 your name, if you would like to submit a
10 comment, and then I will be able to unmute you
11 and allow you to speak as we move through each
12 person who likes to speak. And if the chat
13 function is not working for you, you can also
14 use the hand raise reaction and I will note
15 that you would like to speak.

16 So I will give it a minute for
17 people to submit that they would like to take
18 the floor tonight and then I will proceed to
19 announce that person's name and unmute you and
20 you will then be able to have the floor to give
21 your comments. And we just want to let you
22 know that we are going to stick to about a
23 five-minute time limit, just because we want to
24 have enough time for everybody to speak and

1 there might be more people joining, so we want
2 to be able to accommodate everyone.

3 And so I see people are starting
4 to drop their names in the chat. I will just
5 wait here a minute while people do that and
6 then I will start moving down the list.

7 DR. BETTIGOLE: And while we are
8 waiting, Ben, I see a phone caller in the
9 waiting room. I don't know if we have a way of
10 letting that person in.

11 MR. HARTUNG: Thank you, I will let
12 them in right now.

13 And I will just repeat, hello
14 caller who just joined the meeting, right now
15 we are taking names for who wants to speak, but
16 since you are calling in by the phone, I will
17 call out your cell phone number and unmute you
18 when we get to your turn in line for comment.
19 So thank you for joining the meeting and please
20 stay on the line if you would like to give a
21 comment.

22 Okay. I see we have a couple
23 people in the chat, so I will begin taking
24 comments. The first person who has responded

1 is Dan Auberbach.

2 Mr. Auberbach, I will unmute your
3 mic and let you speak.

4 MR. AUERBACH: Good afternoon
5 members of the Board. Thank you for accepting
6 my request for this hearing, I do appreciate
7 it. The reason I appreciate it especially so,
8 is that the public has not had an opportunity
9 to weigh in about these measures. These
10 measures have been adopted since the beginning
11 of this pandemic without the vote of City
12 Council by fiat of this Board and the
13 Department of Health. So I do appreciate the
14 opportunity to speak about these measures.

15 These measures you have adopted
16 are not lawful. They are contrary to your
17 power under both the City Charter and the City
18 Code. This Board has not mandated vaccination
19 as it might have the power to do under Section
20 6210 of the Philadelphia Code. What it has
21 done is require restaurants to verify the
22 vaccination status of their customers and to
23 require people to show papers to get into
24 restaurants. That is not a power that exists

1 under the City Code. Your powers are limited
2 to what City Council gave to you and you have
3 exceeded them without a vote of City Council.
4 Only City Council can adopt this measure and it
5 has not done so.

6 And the process you have used to
7 do this is also unlawful. We spoke about that
8 at the last meeting based on my comment. And
9 Jo, who I respect very much, my former
10 colleague, advised you that if you had a public
11 health reason for this measure, you could
12 suspend and ignore the provisions of 8407, that
13 required a hearing before adoption of the
14 regulation. And that's not the standard. You
15 can all look at Annotation 11 to Section 8407
16 and see that you can suspend these requirements
17 and adopt a measure prior to 30-days notice in
18 a pre-adoption hearing, only if there is an
19 emergency, without which the measure will court
20 disaster, there will be some disaster if you
21 don't act now. I think the Texas Board
22 Regulation says otherwise.

23 The effective date of this
24 regulation in full is not until January 18th of

1 2022. This measure was announced more than 30
2 days before that. There is no reason you
3 couldn't have given 30-days notice. There is
4 no disaster here. You are willing to wait a
5 month. So what's the disaster that both exists
6 and you can wait 30 days to address it? I
7 don't understand what that could possibly be.

8 Another problem here is we are
9 saying there is an emergency since March 11th
10 of 2020, until present. It's an indefinite
11 22-month emergency. That's how tyrants
12 operate. They declare indefinite emergencies,
13 Caesar did that, that's how he came to power.
14 That's what you're doing here. When is the end
15 of the emergency? When does it stop? Is it
16 forever? Or do we just have to accept that at
17 some point there has to be a return to normalcy
18 in terms of process and procedure. I don't
19 think the Board can justify this delay.

20 I actually don't understand the
21 substance of this requirement. We say you have
22 to be vaccinated and show papers to get into a
23 restaurant. But if you were vaccinated ten
24 months ago, that's okay, even though we have

1 medical studies that say the vaccine is not
2 going to prevent transmission ten months after
3 the fact, it's going to be worthless. The same
4 is true with so-called natural immunity, where
5 if someone recovers from SARS-CoV-2, they have
6 strong natural immunity going forward. Many,
7 hundreds of thousands of Philadelphians have
8 recovered or are in that position. This Board
9 doesn't consider that, so they don't count.

10 So really what this is about,
11 it's about setting up to comply with our
12 dictates. You have to be vaccinated even if
13 there is no real purpose, and a vaccination
14 counts even if it's not really going to do
15 anything for the public health. And you have
16 to show papers to go about your daily life in
17 America. We don't do that in America. We have
18 liberty. You don't have to prove that you're
19 among the clean or among the people who
20 complied in order to go about your daily life.

21 And I don't understand the public
22 health benefit. I don't think this Board has
23 done a cost benefit analysis. I don't think
24 there is some study you're relying on that says

1 we are going to prevent this many number of
2 COVID deaths or hospitalizations. You know, we
3 just have seen this adoption of the same
4 measure in Chicago and other cities
5 coincidentally with a January 3rd option date.
6 And I don't know what this study is. I don't
7 know what the cost benefit is. I don't know
8 how you have determined that this will do
9 anything.

10 I mean, look at the exceptions to
11 this law. You can go in to a restaurant to
12 pick up takeout food even if you're not
13 vaccinated. So somehow if you're there for
14 some permissible purpose that the Board is okay
15 with, well, you're not going to spread COVID,
16 even if you're unvaccinated. I'm not sure how
17 that works. I don't think it does work. And I
18 don't think there is any evidence for it.

19 And most remarkably, this Board's
20 regulation applies to private homes. Not just
21 when a business operates in a private home, but
22 if I have a gathering of 25 or more people in
23 my home, I have to check the papers of everyone
24 who comes in to my home and kick anyone out of

1 my house without vaccination papers. I have no
2 idea how this Board thinks that it can intrude
3 in to our private lives in this manner. I
4 don't see how it's constitutional. I don't see
5 why I can be forced to do this Board's bidding
6 and check that paperwork. I don't see what the
7 purpose of that is.

8 And at the end of the day, I
9 don't know how this measure is designed to
10 serve the public health. It's simply not. And
11 it violates the code, it violates the charter,
12 it violates Pennsylvania's constitution. It
13 violates commonsense. And it violates basic
14 decency.

15 And what this regulation really
16 does, is it tries to build a segregated society
17 where people who don't obey what this Board
18 does or what public health authorities demand
19 is rendered unclean and not fit to go about
20 their daily life, not fit to go about their
21 business and excluded from everything else.
22 And there isn't a rationale for that. There
23 isn't some huge benefit that we are going to
24 obtain where we are going to save thousands of

1 lives. There is almost no benefit, if any, of
2 this measure, and we should not build a
3 segregated society for this reason. It's
4 wrong, and I would ask the Board to get rid of
5 this regulation in its entirety.

6 Now I understand the Board is
7 unlikely to do that. But what I would ask this
8 Board to do if it says no, we are going to
9 stick with it, tell us what the rationale is.
10 Tell us what evidence you relied on. Tell us
11 what the basis for it was. Because there are
12 hundreds of thousands of Philadelphians who
13 feel like I do. Our biggest complaint
14 throughout this pandemic has been no one will
15 tell us what evidence are you relying on.
16 What's the rationale, what's -- how are we
17 doing this? When is this going to end? What's
18 the goal of these measures? We've had our
19 questions unanswered.

20 Many of us, like me, have filed
21 right-to-know law requests, FOIA requests to
22 try to get this information, and we are
23 stonewalled. So none of us know what you're
24 thinking, what the rationale is. So if you do

1 stick with this, please just tell us what the
2 basis is and then people can present evidence
3 to show you're wrong, that it doesn't make
4 sense, please be open to the evidence once we
5 know what you're thinking so that you can make
6 a rational policy choice on these measures that
7 have effected so many peoples's lives that I
8 think they are wrong. But if you disagree,
9 please tell us what the rationale is. With
10 that, I would finish.

11 MR. HARTUNG: Thank you very much,
12 Mr. Auberbach, I appreciate your comment.

13 I will now move to the second
14 person who is Lynn Landes. Ms. Landes, I hope
15 I'm saying your name right, but I will unmute
16 you in one second. Give me a moment.
17 Ms. Landes, the floor is yours.

18 MS. LANDES: Yes, thank you. My
19 name is Lynn Landes, I'm founder of a group
20 called Health Alert Philly.org and on that
21 website we have a lot of information, studies
22 and all that analysis, but these are general
23 comments.

24 And I want to also agree with the

1 former speak, I completely agree with his --
2 with the points he's made. There is no
3 emergency, there never was any emergency for
4 COVID-19 that doesn't seriously effect 99.9
5 percent of the population. This is bullying.
6 This is tyranny. This is bribing and
7 blackmailing people to do what you want them to
8 do, and that is to take a vaccine of which the
9 ingredients people have no clue. So this is
10 also not informed consent, which is in
11 violation of the Geneva conference.

12 You cannot make people, under the
13 Geneva conference, take a medication that they
14 don't know what's in there. And that is what's
15 happening right now.

16 So I want to make some general
17 points. There is no pandemic exemption for the
18 Bill of Rights. There is no pandemic
19 exemption, so you are violating grossly the
20 Bill of Rights. And as the previous speaker
21 had said, there seems to be no end to this.
22 You are setting a horrible precedent.

23 Secondly, mass vaccination and
24 mass medication is an invitation, an open door

1 to mass contamination and mass poisoning,
2 that's just commonsense. Issuing an endless
3 series of mandates on the public schools,
4 businesses based on the virus of the month has
5 created an unnecessary chaotic environment
6 where it is difficult, if not impossible, to
7 function as a civil and sane society.

8 Mandates are also an invitation
9 to government abuse and interfere with the
10 patient-doctor relationship. You've completely
11 abrogated that. This is government control
12 over our bodies, that's what this is. There is
13 no more doctor-patient relationship, that is
14 what you're eliminating with these dictates.

15 Specifically to COVID and its
16 variants, why follow CDC guidance when it has
17 been proven that the NIH funded the
18 gain-of-function Wuhan research, which caused
19 the pandemic to begin with. That is akin to
20 letting criminals, known criminals run the
21 justice department.

22 For 99 percent of the population,
23 there is no serious harm from COVID or any of
24 its variants, particularly for the young, yet

1 they are being mandated to take this vaccine
2 and suffering serious injuries and death
3 because of it. This is unconscionable. To
4 date, there has been zero risk of death for
5 Omicron and little risk of hospitalization.

6 And it does appear that this
7 pandemic, if you want to call it that, is
8 winding down. So why now the mandates? It's
9 very suspicious that this has to do with
10 elections, not with health.

11 So going back to, there is no
12 informed consent when no one knows what the
13 ingredients of what these vaccines are. And
14 particularly when manufacturers, such as
15 Pfizer, has requested the FDA to keep its
16 ingredients quiet or secret for 55 years. That
17 is a giant red flag. Who would do such a
18 thing?

19 And there are no long term
20 studies of COVID either. They just came up
21 with this vaccine. No long term studies, and
22 yet we are mandating it.

23 The other thing is the serious
24 side effects of these COVID vaccines are being

1 reported to VAERS. Hospitals are filling up
2 with the vaccinated, not the unvaccinated. It
3 has been reported that none of the vaccines
4 have been actually approved for use by the FDA.
5 The one that was, is not the one that's being
6 used. So people are still getting the
7 emergency use vaccines, and you are mandating
8 that.

9 I mean, it's a huge litigation
10 wall, a tsunami of lawsuits this city is going
11 to be facing, not only because of illness and
12 death due to these vaccines, but also because
13 of loss of property, finances, all of that.

14 Natural immunity is being
15 completely ignored. If you're already
16 naturally immune, getting the vaccine has its
17 own serious side effects. You do not vaccinate
18 somebody with the chicken pox vaccine who
19 already had the chicken pox. That's very bad
20 for them. And yet this is being completely
21 ignored.

22 The emphasis on cases on PCR
23 tests that has been calibrated to produce a
24 flood of false positives. So the PCR test,

1 Dr. Fauci admitted anything over 36 is going to
2 be producing tons of false positives. So where
3 is it put oftentimes, if you can even find out
4 where the PCR is being calibrated, is at 40, at
5 40, that will pick up the bacteria in your
6 mouth. This is fraud. This is fraud. That's
7 what this is.

8 I'm almost finished. The CDC has
9 deliberately and grossly inflated cases on
10 their guidance, specifically it says, COVID-19
11 should be reported on the death certificate for
12 all decedents where the disease caused or is
13 assumed to have caused or contributed to death.
14 It's everything in the kitchen sink is being
15 termed COVID. That's how they got the 800,000
16 deaths.

17 And then they reverse it for
18 deaths due to the vaccine. This is criminal
19 fraud. That's what they are engaged in. And
20 they financially incentivize this. So they can
21 put you on a ventilator, they get \$39,000 for
22 it. If they can give you the Remdesivir, they
23 get money. Those two things together,
24 Remdesivir, a 30 percent chance of fatalities,

1 the ventilator, a 90 percent chance of
2 fatalities. This is a death protocol. This is
3 a euthanasia protocol they are involved in and
4 they get incentivize financially for it.

5 MR. HARTUNG: Ms. Landes, if you
6 can wrap up.

7 MS. LANDES: That's pretty much it,
8 except for the face masks, they are also
9 horrible. And the city, again to emphasize,
10 it's setting itself up for massive lawsuits.
11 This is criminal what's going on. Thank you
12 very much. I appreciate it.

13 MR. HARTUNG: Thank you very much,
14 Ms. Landes, for your comments.

15 The next person who is requested
16 to speak is Dustin, excuse me, Luchmee. I'm
17 sorry if I pronounce that incorrectly. Dustin,
18 give me one second and I will unmute you.

19 MR. LUCHMEE: Hello, can you hear
20 me? Hello?

21 MR. HARTUNG: Yes, we can hear you.

22 MR. LUCHMEE: You said my name
23 correctly. I wanted to introduce myself, I am
24 Dustin Luchmee, I am a resident of South

1 Philadelphia. I am also co-leader of Project
2 Stand Together Philadelphia.

3 I worked in medical research at
4 Penn and Einstein Hospital for six years of my
5 life. If I was not transparent about the risks
6 of the experiments I was doing with my
7 participants, I would be violating the
8 Nuremberg Code. That is currently what's going
9 on with the City of Philadelphia with these
10 mandates. We are not being told the risk of
11 using the vaccine. The vaccine that is
12 authorized right now is currently experimental
13 as the Comirnaty is not available on the
14 market. We are seeing that many people are
15 having heart and neurological complication as
16 well as dying from receiving the vaccine.

17 The mandates are based on the
18 basis of stopping the spread. We know now that
19 the vaccine does not stop transmission, even
20 though that CDC Rochelle Walensky has
21 perpetuated that lie as well as President Biden
22 and Anthony Fauci. We also have learned that
23 Anthony Fauci has told us, in an interview with
24 Mark Zuckerberg, that the vaccine may actually

1 make you more susceptible to infection of
2 COVID-19.

3 Right now with the Omicron
4 variant, we see a disparity in the reporting of
5 the severity of this new variant of COVID. We
6 see in South Africa that it is not as bad as
7 the American media is making it out to be. It
8 is actually something that we want the
9 population to catch as the symptoms are very
10 mild and people will likely not be hospitalized
11 and they will gain natural immunity.

12 The mandates ignore the basis of
13 natural immunity. People have already
14 recovered from COVID. And people who have
15 allergies to the vaccine or other
16 predispositions for why the vaccine may be
17 harmful for them. By implementing these
18 mandates, you are excluding people from society
19 on the basis of their medical choice and their
20 right to make their own medical decisions for
21 their bodies knowing what they know.

22 We also live in a predominantly
23 black city, only 11 percent of the black
24 community of Philadelphia is fully vaccinated.

1 So these mandates are also racist by excluding
2 the black community from city activities. The
3 black community has reasonable distrust in the
4 medical community for experimentation and past
5 crimes against humanity committed against them.

6 By implementing these mandates,
7 these mandates are a crime against humanity.
8 They are violating the Nuremberg Code, and by
9 doing so you are acting as war criminal and
10 would be tried as such as legal action would be
11 taken.

12 I really hope that you reconsider
13 these mandates. Please do not implement them.
14 There is no basis in science for using these
15 mandates to help curb the spread. We are
16 actually looking into a much more milder
17 version of COVID. We are likely to recover.
18 But it seems like this pandemic will never end
19 as politicians have other goals for voting and
20 for financial gains to keep it going on.
21 That's all.

22 MR. HARTUNG: Thank you very much
23 for your comments.

24 The next person that we have is

1 An Bop. One second and I will unmute you if
2 you are ready to speak.

3 MS. BOP: Hello, I just wanted to
4 reiterate some of the points that Dustin had
5 made just right now. But also explaining the
6 fact that a lot of the black community and the
7 black and local small business owners are
8 taking the biggest hit with this -- with this
9 coming mandate. A lot of them are not aware
10 that you guys even hold meetings such as these
11 where they can voice their concern with what is
12 going on at this moment. They can't -- they
13 have no place to express that they will be
14 directly effected by mandates such as these.

15 These black businesses and local
16 businesses, small businesses are suffering at
17 the hands of this and have been suffering since
18 day one. And whatever small incentive, doesn't
19 make up for the fact that they may be losing
20 customers, losing money, losing jobs and losing
21 their way to make money and fend for
22 themselves. Where last year, as we all know,
23 it was a big point to focus on black
24 businesses. There was articles all over the

1 place, there was information and news all over
2 the place to pour attention into these
3 businesses out of what happened, where we
4 realized these communities were disenfranchised
5 and treated unfairly. And yet now, it's very
6 much being swept under the rug and being
7 ignored that these people may be suffering at
8 the hands and you guys aren't directly talking
9 to them and asking them if it is or if it is
10 not effecting them negatively and how they can
11 be supported during this time, so that's number
12 one.

13 Like Dustin said, again, as you
14 know only 11 percent are vaccinated, and if
15 most of their customers are not forcing them to
16 do these -- and how you guys exactly will
17 enforce these is also a big question, where it
18 can cause a lot more issues and a lot more
19 problems than it can help. So the restaurants
20 are not the problem. I think people are able
21 to gauge and be able to weigh their own
22 measures and safety themselves, if they feel
23 confident, if they have natural immunity or
24 anything like that where they are comfortable

1 enough to go into a restaurant, like they were
2 in the beginning of the pandemic. Because as
3 you know, there were not these rules in place
4 at the beginning, and people still trusted
5 themselves and wanted to support businesses of
6 their own to go to these meetings. So now in
7 this sense where you guys are stopping their
8 ability to be able to do this, you are not
9 asking them how to go forth. And that is my
10 main problem, as well as everyone else
11 reiterated the science and the points very well
12 previously. Thank you.

13 MR. HARTUNG: Thank you very much
14 for your comment.

15 We did receive a message in the
16 chat from Dan Auberbach that I will just read
17 into the record at his request. It states, can
18 you please tell us whether the Board can commit
19 to a date by which it will make a decision?

20 And Dustin Luchmee, I see your
21 request to comment once again. I'm going to go
22 to the caller first to make sure the person who
23 joined the meeting by phone, who I don't know
24 if they can comment in the chat, are able to

1 submit their comments, although now I'm not
2 seeing that person at the moment.

3 Is there anyone else that would
4 like to comment that has joined the meeting,
5 would you please submit your name in the chat
6 function or raise your hand to do so? And if
7 we don't have anybody, I will briefly give
8 Dustin Luchmee the floor again, but Dustin as
9 you have already spoken, I want to prioritize
10 other members of the public.

11 Okay. Frank Pater has requested
12 to comment. Mr. Pater, I will unmute you now.

13 MR. PATER: Hi. Thanks for taking
14 your time to hear my comments. I did submit a
15 written comment as well but I'll summarize
16 here.

17 I just want to point out that
18 mandating vaccination in restaurants is
19 ineffective, burdensome to an already
20 struggling industry and most importantly highly
21 immoral, therefore you should definitely not
22 implement any vaccine mandates.

23 It's clear that COVID-19 is a
24 pandemic at this point, it's not going away.

1 Anybody has been watching the news the past
2 week or so definitely has seen multiple reports
3 of fully vaccinated plus boosted people coming
4 down with COVID, many of those have been in
5 indoor settings where everybody in the building
6 was vaccinated and sometimes masking. You
7 know, plainly put, that means COVID is
8 continuing to spread, even when everyone is
9 vaccinated and masked.

10 Therefore, like the only way to
11 prevent restaurants from being a vector by
12 which COVID can spread is to close them again
13 completely. Multiple studies have confirmed
14 that vaccinated people can catch and transmit
15 the virus at the same rate as unvaccinated
16 people.

17 Further, for the past four
18 months, I think, bars and restaurants have had
19 to choose between either requiring vaccines or
20 universal masking. I would ask if there is any
21 data suggesting that the restaurants and bars
22 that chose the former have had less COVID
23 transmission than those that chose the latter.

24 The vaccines have been available

1 for almost a year now. Do we really think that
2 anyone who has chosen at this point not to take
3 one is going to change their mind in order to
4 go out to dinner? I don't think so, given the
5 passion with which this topic is debated daily
6 everywhere.

7 The restaurant industry is
8 clearly struggling due to last year's shutdown
9 and ongoing hesitancy by the general public to
10 go out to eat as it is. Even when people are
11 vaccinated, they are still nervous. When you
12 walk around the city, you can see help wanted
13 signs everywhere, it's obvious that there is a
14 shortage of workers. Burdening the restaurants
15 with these additional recordkeeping
16 requirements and limitations on staff and
17 customers are going to continue to force that
18 industry to decline, tourists will avoid the
19 city. You know, combined with the fact that
20 this is not going to slow the spread of COVID
21 at all, this is a lose-lose proposition that's
22 making things much worse for the city. COVID
23 is going to continue to spread, restaurants
24 will continue to decline, forcing businesses to

1 discriminate when they don't want to is going
2 to further encourage their owners to shut down
3 or leave.

4 Lastly, it's terribly unethical.
5 You're formally segregating societies by
6 codifying discrimination against a group of
7 people into a city regulation. The low
8 vaccination rates have been mentioned among
9 minority and marginalized communities. It's
10 very immoral to bar a class of people from
11 public accommodations based on a personal
12 medical decision regarding a brand new class of
13 medicines, the long term effects of which are
14 just not known, can't possibly be known.

15 I think everyone knows in their
16 heart of hearts that this kind of segregation
17 is wrong. And on top of that, it just won't
18 work. So I appeal to your sense of humanity
19 and reason and respectfully request that you
20 reverse the decision. That's all.

21 MR. HARTUNG: Thank you very much
22 for your comment.

23 We did have Christina Sloat was
24 the next person who said they would like to

1 speak. Christina, are you ready?

2 MS. SLOAT: Yes.

3 MR. HARTUNG: Thank you, the floor
4 is yours.

5 MS. SLOAT: Thank you. I'd like to
6 read a letter that I had written to the
7 Philadelphia Inquirer back in August. As one
8 might expect, they did not print (inaudible)
9 and so I like to read it to you today. It's
10 still relevant.

11 So letter to the editor or to
12 whom it may concern. Forcing masks on the
13 unvaccinated is unconstitutional, unhealthy and
14 unlawful. All research papers written prior to
15 this planned technocratic takeover support the
16 shocking idea that our nostrils are meant to
17 inhale a particular ratio of gases and a
18 particular volume of oxygen versus carbon
19 dioxide. When we wear a mask, we are denied
20 the proper volume of gases and we are forced to
21 inhale the wrong ratio of gases. We are also
22 unable to exhale the viruses and microbes that
23 we are meant to, therefore trapping them in our
24 airways.

1 Forcing the body out of
2 homeostasis in regards to gases and to the
3 exhalation of microbes stresses the body's
4 systems and organs, which means that if you do
5 come in contact with the virus, you would be
6 more likely to come down with one.

7 All of this is true of someone --
8 of all of us, much less someone who already has
9 a respiratory or other medical problem. If
10 anything, the disabled or otherwise medically
11 compromised are the last group of people that
12 should be forced to deny themselves oxygen.
13 Those people are also most likely to suffer
14 most if vaccinated. That's to say, these
15 people, anyone that feels that the masks or
16 vaccines are not appropriate for them should
17 not be asked, coerced or forced to wear one,
18 and any attempt to intimidate them into wearing
19 a mask or to vaccinate when it would otherwise
20 not be recommended is cruel and inhuman. Are
21 you trying to further stress their weakened
22 bodies? Might as well join the Neo Nazi party.

23 If you research asthma,
24 bronchitis, pneumonia, oxygen, even the

1 conditions under which cognitive functioning is
2 best supported on PubMed, which is available to
3 anyone, you look for research done prior to the
4 COVID situation or when such issues became
5 overly politicized by biotech, pharma, big
6 tech, and their allies, you will find that the
7 denial of oxygen impairs organ and cognitive
8 functioning.

9 It is clear that viruses are
10 always in our environment, particularly in our
11 meats, our vegetables and poorly regulated and
12 understood. Nanotechnologies are in our
13 pharma, food, beverages and daily vitamins. If
14 you want to survive COVID-19, demand that the
15 FDA and the USDA and other federal agencies
16 take a closer look at nanomaterials, quantum
17 dots and nano-micro-electrical mechanical
18 systems.

19 So here I'm switching topics a
20 little bit, away from the masks which is
21 relevant to the indoor and outdoor dining. And
22 now I'm trying to refocus or bring it --
23 introduce the subject of what exactly are these
24 symptoms caused by. And to suggest that we

1 need a larger, wider perspective. That we need
2 to consider that there may be other factors
3 affecting our health and inspiring similar --
4 inspiring these symptoms.

5 So what we really need to be
6 doing, one of the things that isn't being done,
7 and hasn't been acknowledged here in the US,
8 the EU and Switzerland are far more advanced in
9 discussing and tackling the issue of
10 nanotechnologies in foods, for example. In
11 Switzerland in May of 2021, all
12 nanotechnologies in foods -- or any processed
13 food that includes nanotechnology in the food,
14 it must be labelled on the packaging, okay. So
15 we need to be demanding that federal agencies
16 require more of pharmaceutical companies
17 mandating that they share their intelligence on
18 nanotechnologies and demanding that companies
19 that manufacture and disseminate
20 nanotechnologies in any eatable or injective
21 project should be required to label a product
22 with the shape, is it flat, caged, nano tube,
23 what is the shape of the crystal or structure
24 of the nanotechnology, and how has it been

1 functionalized.

2 This is relevant to the issue of
3 vaccines. There was a rumor that some of the
4 vaccines included graphene. Most modern day
5 technologies do -- modern day vaccines do
6 include or involve nanotechnologies.
7 Nanotechnologies are not malicious in and of
8 themselves, not at all. The question is is
9 what type of nanotechnologies are in there and
10 why are they in there. Graphene in and of
11 itself is not a bad thing, per se. That rumor
12 was not well explicated or unpacked in the
13 media.

14 MR. HARTUNG: Ms. Sloat, I want to
15 note that you're coming up on five minutes, I
16 would ask you to summarize your comments.
17 Thank you.

18 MS. SLOAT: Sure. Thank you. I
19 actually had neglected to check the time. Do I
20 have one minute left? Or less?

21 MR. HARTUNG: Yes, you have about
22 one minute, yes.

23 MS. SLOAT: One minute, okay, thank
24 you.

1 So all of these things should be
2 on the packaging. So I'm just going to put
3 that out there. It's not something that I have
4 heard -- it's not something that's really being
5 explored on CNN. But CNN -- when has CNN ever
6 been about health, the health of the
7 individual? And each of us as individuals, we
8 create a collective, the public. I would like
9 to mention that this -- just to refocus on the
10 individual there.

11 All right. So if you would like
12 to -- I'm going to skip some here, if you would
13 like to -- if you really do feel like an
14 airborne virus is the issue, then use the mask
15 yourself, right. But please remember that it's
16 not the best for everyone. That we do have to
17 keep our individual biologies in mind.
18 Likewise, the vaccine. I think that we should
19 return to this idea that a democracy, where we
20 each get one vote or that our votes and our
21 voices matter.

22 I believe all of it should be a
23 choice. Your choice when you're dining, you
24 should have the right to be inside if you

1 should choose that that's the place where you
2 like to eat. I don't feel that a public
3 mandate on this issue was ever warranted, but I
4 think particularly now we can see that there is
5 always going to be a new reason, a new virus, a
6 new fear or scare coming from biotech and
7 pharma. So I think we should dump the insanity
8 and reclaim our country, reclaim ourselves,
9 reclaim the planet, reclaim anti-fascist,
10 anti-totalitarian, pro-human rights --
11 pro-human rights, a your right to your own body
12 mentality. Thank you.

13 MR. HARTUNG: Thank you very much
14 for your comment.

15 I want to go next to anybody who
16 has called in on the phone. I just saw someone
17 but I don't believe they are with us at the
18 moment. Is there anyone else who would like to
19 speak?

20 Dustin, I know that you have
21 submitted a couple of written comments, which I
22 am recording for the record. Those will be
23 included in the written comment record, thank
24 you very much for those.

1 I'm just waiting -- giving
2 anybody else who has joined the call time to
3 decide that they would like to speak. I could
4 go around and call names if we think that's
5 appropriate. I will start doing that, I guess,
6 just to make sure that everybody has a chance
7 if they would like to comment.

8 First person I see is Hayat Ali.
9 I'll ask to unmute, see if you want to say
10 anything.

11 MS. ALI: Hi, this is Hayat Ali.
12 I'm from Salam Cafe, and I'm very new for the
13 neighborhood. I just start my journey in
14 Germantown like six months ago. And this COVID
15 scare me so much. The business is going slow
16 and I don't know what's going on honestly.

17 I just -- I need advice and I
18 need feedback from the people, from the
19 neighborhood and from everybody, because I'm
20 new for business and I'm just having a fear of
21 what's going on. That's what I want to share.
22 Thank you.

23 MR. HARTUNG: Thank you very much.
24 I appreciate your time and comment.

1 Okay, let's see, I see Linda
2 Toscano. Linda, would you like to submit a
3 comment? I'm sorry, Linda, you're still muted.

4 MS. TOSCANO: Okay. Is that all
5 right now? Okay. I submitted a few comments
6 before the meeting and I wanted to see what
7 everybody else said so I didn't duplicate. I
8 think I have one thing that I didn't hear
9 anyone else mention, so I'm going to read it
10 from my E-mail.

11 So this is what I said, if you
12 truly want to save lives, you should make a
13 mandate requiring all doctors, hospitals and
14 pharmacies to allow early treatment of COVID
15 using such things as Hydroxychloroquine,
16 Vitamin D, IV Vitamin C, et cetera. This is
17 what would make Philadelphia death numbers go
18 down and set an example for the nation.

19 Have you done research other than
20 the mainstream propaganda? How will history
21 judge you? Lots of good people have followed
22 tyrannical governments before.

23 In other words, we aren't even
24 allowed to use medications that will help us if

1 we do get COVID. You can't buy them. You
2 can't get them. You have to get them online
3 from other states. You have to get them -- you
4 have order Ivermectin from India, okay. I had
5 COVID, I'm 68 years old, I got
6 Hydroxychloroquine through moving heaven and
7 earth, I got -- every symptom was gone in 24
8 hours. Okay.

9 Lots of people have died
10 unnecessarily. This bullshit -- excuse my
11 French -- about closing restaurants and all
12 this, it's doing nothing. Like it's stupid.
13 Have a mandate that actually means something.
14 So as far as that, that's the -- I think my
15 other points were covered by other people. I
16 just wanted to say that.

17 MR. HARTUNG: Thank you very much
18 for your comment.

19 Okay. I'm looking through the
20 list here to make sure I haven't missed
21 anybody. I see Daniel Raso-Llaras. Daniel,
22 would you like to make a comment?

23 MR. RASO-LLARAS: Sure. Yeah, I
24 wouldn't mind.

1 I actually think that many of my
2 -- well, I don't know many of them, but I
3 consider them friends at this point because
4 anybody that is -- that has the courage to
5 stand up against totalitarian orders and
6 mandates, again, we know that by the first
7 speaker that this is not the law and we should
8 bear that in mind every time that we -- well,
9 going to a restaurant.

10 I remember also that I continue
11 to work only because I have medical exemption.
12 I have glomerulonephritis, chronic
13 glomerulonephritis that made me undergo
14 surgery. Basically I had a kidney transplant.
15 And I know, even though Penn, of course, it's
16 in on this, but they decided that basically
17 even if, you know, there could be adverse
18 reactions to the vaccine for patients of that
19 kind, because I am immunosuppressed as a result
20 of being of course -- of the transplant.

21 But the idea is there were
22 adverse reactions basically, kidney disease as
23 a result of vaccination, and in rare cases
24 maybe, but basically you're taking your chance.

1 And then, you know, you are not even
2 questioning the risk assessment, it's just take
3 it no matter what, no matter who you are, no
4 matter what your conditions are, no matter who
5 you are as an individual because this is all
6 about, you know, the greater good. The greater
7 good. And it's also solidarity and it's love.

8 It's weaponizing love is what it
9 is. It's weaponizing like goodhearted feelings
10 that people have in their souls and you're
11 turning that against them. You should be
12 ashamed of yourselves. And I know you're not,
13 because at the end of the day, you know, you
14 think you're right. That righteousness that
15 gives you the expert notion that they know
16 they're right. And you may know in your heart
17 of hearts that you're not. But you won't
18 acknowledge it. And you will continue with
19 this until, I don't know when. I don't know
20 when.

21 But I know all over the world
22 people are raising up and you will have to
23 answer questions to them, to me and to
24 everybody else. That's it.

1 MR. HARTUNG: Thank you for your
2 comments.

3 Okay. I haven't received anymore
4 requests for speaking but let me just double
5 check the chat to make sure.

6 DR. BETTIGOLE: And while you're
7 doing that, I just want to answer Dan's
8 question in the chat. The Board will provide
9 notice before its next meeting when it will
10 consider a report on today's hearing with any
11 changes, if any. We can't provide a date
12 today, but we will. That will be after the new
13 year.

14 MR. HARTUNG: Thank you,
15 Dr. Bettigole.

16 I see we have a couple people
17 still on the line who haven't spoken, so if you
18 would like to speak, you're free to unmute
19 yourself and give comment. I just don't see
20 your full names so if you would like to speak,
21 please identify yourself by name.

22 Okay. Not hearing any further
23 comment --

24 MR. LUCHMEE: Ben, Ben, I would

1 like to make one final remark if I may.

2 MR. HARTUNG: Okay, Dustin.

3 MR. LUCHMEE: I just wanted to say
4 that by putting these mandates in, with regards
5 to the Nuremberg Code, you are not allowing
6 people to make an informed decision because you
7 are punishing them for making whatever medical
8 choice that they make. The vaccine should be
9 available to all who want it. For those who
10 cannot take it for medical reasons or who do
11 not want to take it or who have already had
12 COVID-19, there should be no punishment for
13 them making that choice. And by mandating this
14 vaccine to participate in society, you are not
15 only furthering racial inequality, but medical
16 inequality. And you are committing a war
17 crime.

18 As a previous researcher, if I
19 were to punish one of my participants for
20 choosing not to participate in my study, I
21 would also be committing a war crime. Because
22 they would not be able to give informed consent
23 and feel that they were not being pressured to
24 do something that they don't want to do.

1 If you really cared about public
2 health in Philadelphia, you would make the
3 therapeutics, the Ivermectin, the Vitamin D
4 accessible to Philadelphians, they are very
5 cheap. You would be able to give that to the
6 communities in need. But you're choosing not
7 to do that and that speaks volumes about your
8 approach to public health, that you don't care
9 about public health, that you care about
10 furthering medical apartheid and dividing the
11 city.

12 MR. HARTUNG: Okay. Thank you.
13 Thank you for that comment, Dustin.

14 And with that, Commissioner
15 Bettigole, I'll turn it back over to you.
16 Thank you everyone for your comments.

17 DR. BETTIGOLE: So I want to thank
18 everyone who has participated in this public
19 hearing. As I mentioned at the beginning, the
20 Board will be considering all of the comments
21 that were given here this afternoon as well as
22 those that were submitted in writing.

23 They will be issuing a report
24 that will include any changes, amendments that

1 they decide to make to the regulation. There
2 would be a meeting of the Board held to discuss
3 in early January.

4 Jo, is there anything else that
5 we should be adding at this point?

6 MS. ALTMAN: No, Dr. Bettigole, I
7 think that's it, unless there is anything else
8 that the Board would like to add at this time.
9 Otherwise, I think it's appropriate to wrap up
10 and adjourn the meeting.

11 DR. BETTIGOLE: Thank you. Any
12 members of the Board who would like to comment?

13 Well, I want to thank everyone,
14 the Board of Health members and the members of
15 the public who came for your comments, for your
16 engagement in this issue. Very much appreciate
17 you, everybody please stay safe and have a good
18 night.

19 I'll now adjourn the meeting, it
20 is 5 p.m.

21 (Meeting adjourned.)

22

23

24

1 C E R T I F I C A T E.

2 I hereby certify that the aforesaid
3 recording was transcribed by me to the best
4 of my ability and is a true record of the
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Dated: December 28, 2021

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EXHIBIT C

Daniel J. Auerbach
1500 John F. Kennedy Blvd., Suite 1203
Philadelphia, PA 19102
(215) 983-6966 | auerbachd@gmail.com

Via email: diana.cortes@phila.gov

December 14, 2021

City Solicitor Diana Cortes
City of Philadelphia Law Department
1515 Arch Street, 17th Floor_
Philadelphia, PA 19102

RE: Invalidation of the suspension of § 8-407

Dear Solicitor Cortes:

This letter demands that the Mayor immediately reinstate the provisions Section 8-407 of the Home Rule Charter and that the Board of Health comply with its requirements regardless of whether the Mayor has reinstated it. The Law Department should not advise any City board or agency that its regulations will be valid despite the failure to comply with § 8-407.

As you know, the Board of Health intends to adopt a regulation purporting to require certain indoor businesses that permit eating or drinking to verify that patrons have received a SARS-CoV-2 vaccine. Further, my understanding is that the Mayor purports to have kept Charter § 8-407 in suspense from March 2020 to present.

The suspension of § 8-407 is invalid. Annotation 11 to § 8-407 makes clear that the Mayor's authority to suspend it is limited to "[e]mergencies affecting the public health or safety." It is only when "immediate administrative action through regulations" is necessary to avoid "court[ing]" "disaster" that the Mayor can suspend the "regular procedure" of § 8-407.

There is no emergency affecting the public health in general. It has been almost 22 months since the City began to respond to the outbreak of SARS-CoV-2. The notion of a 22-month "emergency" is absurd.

Further, the proposed terms of the regulation make clear beyond doubt that the regulation will not address anything requiring "immediate administrative action"

Diane Cortes
December 14, 2021
Page 2

without compliance with § 8-407. The full effect of the proposed regulation will not occur until January 18, 2021. It is only on that date that vaccine verification—but not proof of a negative COVID-19 test—will be necessary. The Board of Health could have complied with § 8-407 in time for the desired January 18, 2021 effective date. The Charter does not permit the suspension of § 8-407 for what is now only the administrative convenience of the Board of Health.

There is simply no reason to deny the public the right to address City agencies before implementation of regulations that have a profound effect on their lives. The Board's regulation will be invalid if the Board fails to comply with § 8-407.

Lastly, in my own right, in accordance with Section 8-407 of the Home Rule Charter, I demand a hearing on any future regulation related to COVID-19 or regarding vaccination requirements for indoor dining or drinking.

Sincerely,

/s/ Daniel J. Auerbach

Daniel J. Auerbach

cc: Lewis Rosman, Esq.; Jo Rosenberger Altman, Esq.

Daniel J. Auerbach
1500 John F. Kennedy Blvd., Suite 1203
Philadelphia, PA 19102
(215) 983-6966 | auerbachd@gmail.com

Via email: diana.cortes@phila.gov

December 14, 2021

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City of Philadelphia Law Department
1515 Arch Street, 17th Floor_
Philadelphia, PA 19102

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Diane Cortes
December 14, 2021
Page 2

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Lastly, in my own right, in accordance with Section 8-407 of the Home Rule Charter, I demand a hearing on any future regulation related to COVID-19 or regarding vaccination requirements for indoor dining or drinking.

Sincerely,

/s/ Daniel J. Auerbach

Daniel J. Auerbach

cc: Lewis Rosman, Esq.; Jo Rosenberger Altman, Esq.



GAMBURG & BENEDETTO

ATTORNEYS AT LAW

Via email: Jo.RosenbergerAltman@phila.gov

December 17, 2021

Jo Rosenberger Altman, Esq.
City of Philadelphia Law Department
1515 Arch Street, 17th Floor
Philadelphia, PA 19102

RE: Board of Health's December 23, 2021 hearing

Dear Ms. Rosenberger Altman:

In response to the concerns that I raised regarding the Board of Health's failure to provide 30 days' notice of its proposed "vaccine mandate" regulation and the opportunity for a pre-decision hearing, my understanding is that the Board scheduled a hearing for December 23, 2021. Any participation of either myself or any client that I may have or that may later retain my services is under protest.

After the Board has already made its decision, a post-hoc hearing does not cure the violation. Moreover, there is far less than the requisite 30 days' notice of the hearing. In any suit, we would still seek to invalidate the regulation for failure to comply with Section 8-407. We would participate in the hearing only in a good-faith attempt to resolve our substantive concerns with the Board's regulation. We do not concede the propriety of the Board's procedures, which are illegal.

Sincerely,

/s/ Daniel J. Auerbach

Daniel J. Auerbach

cc: Lewis Rosman, Esq.; Jo Rosenberger Altman, Esq.

EXHIBIT D



CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH: Originally Adopted
12/14/2021
LAW DEPARTMENT: 12/15/2021
RECORDS DEPARTMENT: 12/15/2021
PUBLIC HEARING: 12/23/2021
REPORT ON PUBLIC HEARING
APPROVED: 1/4/2022
REPORT FILED WITH RECORDS
DEPARTMENT:

**EMERGENCY REGULATION
GOVERNING THE CONTROL AND PREVENTION OF COVID-19**

**MANDATING VACCINES FOR INDIVIDUALS WORKING AND DINING AT
INDOOR DINING LOCATIONS (AS AMENDED 1/4/2022)**

WHEREAS, on March 6, 2020, in response to the 2019 novel coronavirus disease, COVID-19, the Governor of Pennsylvania issued a Proclamation of Disaster Emergency, and on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, or global epidemic; and

WHEREAS, on March 11, 2020, the Mayor issued a “Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus” to allow the City to promulgate emergency regulations on a shortened time frame in order to address the public health emergency posed by COVID-19, while the formal procedures for promulgating regulations pursuant to Section 8-407 are followed; and

WHEREAS, on March 12, 2020, the Board added COVID-19 to the City’s list of reportable and quarantinable diseases; and

WHEREAS, since March 12, 2020, the Board has promulgated and rescinded numerous disease control and prevention regulations as needed to address the ebbs and flows of the COVID-19 pandemic; and

WHEREAS, since the beginning of the pandemic there have been more than 18,800 COVID-19 hospitalizations and 4,000 COVID-19 deaths in Philadelphia; and

WHEREAS, case rates from November to current are rapidly rising, and Philadelphia has moved from a substantial transmission level of less than 99 COVID-19 cases per 100,000 people to an average of approximately 293 new COVID-19 cases per 100,000 people identified per day in Philadelphia, which places Philadelphia in the Centers for Disease Control and Prevention’s high transmission category (which includes any location over 100 or more cases per 100,000); and

WHEREAS, COVID-19 hospitalizations in Philadelphia hospitals have risen by more than 50% in the 2 weeks between November 26 to December 10, 2021, from 208 hospitalizations on November 26th, to 337 hospitalizations on December 10th, and 79% of COVID-19 hospitalizations

were unvaccinated individuals; and

WHEREAS, the City’s post-Thanksgiving COVID-19 percent positivity rate peaked at more than three times its October rate heading into the Fall and Winter of 2020 and transmission is expected to similarly increase as we head into the Winter of 2021; and

WHEREAS, there is substantial evidence that widespread mask use can prevent the spread of COVID-19, and observational data has suggested that people who wear masks and become infected may be less likely to develop severe disease; and

WHEREAS, inside activities, and in particular inside activities where individuals gather without masks and where individuals gather for extended periods, or both, increase the likelihood of the spread of COVID-19; and

WHEREAS, studies have indicated and public health experts have concluded that indoor dining is a significant driver of the COVID-19 pandemic, in part because it is not possible to wear a mask while eating or drinking; and

WHEREAS, safe, highly effective COVID-19 vaccines are now widely available in the United States; and

WHEREAS, administration of a COVID-19 vaccine is a medically accepted and recommended form of prophylactic treatment that dramatically reduces the likelihood of experiencing a symptomatic SARS-CoV-2 infection, and recent studies show that available COVID-19 vaccines also reduce asymptomatic infection and transmission; and

WHEREAS, COVID-19 vaccines are now readily available for all eligible individuals five years of age and older, while those four years of age and under remain ineligible for vaccination and therefore subject to greater exposure of infection and transmission; and

WHEREAS, it is well established that COVID-19 vaccines remain effective even against infection with the Delta variant and other recent variants of concern; and

WHEREAS, broad distribution and uptake of COVID-19 vaccines is essential to ending the COVID-19 pandemic; and

NOW, THEREFORE, pursuant to its authority under the Pennsylvania Disease Prevention and Control Law of 1955, Section 6-210 of The Philadelphia Code, Section 8-407 of the Philadelphia Home Rule Charter, and the Mayor’s “Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus,” the Board of Health hereby adopts the following emergency regulation, effective immediately upon delivery to the Department of Records, while the remaining procedures and formalities of Section 8-407 are followed to promulgate this as a formal regulation:

Section 1. Definitions.

Approved COVID-19 Vaccine. A vaccine that has been authorized or approved by either the Food and Drug Administration or the World Health Organization to prevent COVID-19, whether for emergency use or otherwise.

Completed Vaccination Series. An individual is considered to have received a Completed Vaccination Series when the individual has received the second dose in a two-dose series of an Approved COVID-19 Vaccine or a single dose in a one-dose Approved COVID-19 Vaccine.

Indoor Dining Location. Any location, whether open to the public or private, including personal residences, where food or drink is sold or served indoors for consumption onsite, except as follows.

The term does not include:

- (A) A location where only drinking water is served or permitted.
- (B) Early childhood education and K-12 schools.
- (C) Hospitals, congregate care facilities, or other residential or healthcare facilities.
- (D) Any location where food or drink is consumed as part of a religious practice.
- (E) A location where food or drink is sold by vending machine only and which does not contain a designated indoor eating area.
- (F) Any portion of a location that is outdoors, meaning the area is fully open to the outside on two or more sides, provided that entrance into any associated indoor food or drink service or eating areas are actively monitored to ensure compliance with this Regulation.
- (G) With respect to a business or commercial location where any indoor eating area is entirely segregated from other portions of the facility, the portion of the facility that is physically segregated from any indoor eating areas, provided that entrance into any such indoor eating areas are actively monitored by the business to assure compliance with this Regulation.
- (H) Food courts or markets, grocery stores, and airport facilities, except as specifically provided in subsection (B) of Section 2, below.
- (I) Food service locations that provide free food to those who may be homeless or in urgent need of food, such as soup kitchens.

Indoor Dining Worker. Any individual that works at an Indoor Dining Location in

any capacity.

Section 2. Limitations on Unvaccinated Individuals in Indoor Dining Locations.

(A) General Rule - Businesses Serving or Providing Food at an Indoor Dining Location.

Effective January 3, 2022, no business serving or providing food at an Indoor Dining shall allow any individual onsite at such location unless such individual meets the vaccination requirements set forth in this Section and in Sections 3 (Vaccination and Exemption Requirements for Indoor Dining Workers), 4 (Vaccination and Exemption Requirements for Customers and Other Non-Indoor Dining Workers), and 5 (Requirements for Athletes, Performers, and Supporting Staff), below, as applicable. In summary, and subject to applicable medical and religious exemptions as provided in the relevant sections identified below:

- **Indoor Dining Workers.** Effective January 3, 2022, such workers must have received at least one dose of an Approved COVID-19 Vaccine and, if applicable, effective February 3, 2022, must have received a Completed Vaccination. *See* Section 3, below.
- **Diners and other Non-Indoor Dining Workers Twelve (12) Years of Age and Over.** Effective January 3, 2022, such diners must have received a Completed Vaccination Series to dine at an Indoor Dining Location. *See* Section 4(A), below.
- **Diners 5 years and 3 Months of Age and Over but Under Twelve (12) Years of Age.** Effective January 3, 2022, such diners must have received at least one dose of an Approved COVID-19 Vaccine, and effective February 3, 2022, such diners must have received a Completed Vaccination Series to dine at an Indoor Dining Location. *See* Section 4(C), below.
- **Diners younger than 5 years and 3 months of age** are exempt from the requirements of this Regulation. *See* Section 4(C), below.
- **Athletes, performers, and supporting staff** are subject to the details of safety plans approved by the Department for the relevant facility. *See* Section 5, below.

Nothing in this regulation applies to individuals present at an Indoor Dining Location for a short duration (less than 15 minutes) for the purpose of picking up food to take out, using the restroom, or for a similarly short and transitory purpose, provided the individual is masked at all times.

This Regulation shall not preclude any business from establishing more strict vaccine requirements for its workforce, contractors, volunteers, customers or clientele, including requiring all persons onsite to be vaccinated (to the extent otherwise permitted under applicable law).

(B) Application to Specific Indoor Dining Locations.

(i) Onsite Dining at Grocery Stores, Food Courts, and Similar Locations.

With respect to food service at grocery stores that provide areas for dining on site; take-away food service at sports stadiums; food courts and markets, meaning locations containing multiple indoor food service locations providing food for take away service where general seating is provided for use by customers of any of the multiple food service locations; and similar locations; the vaccination requirements do not apply to take out only portions of such facilities – or to food service locations that provide take out service only. The vaccination requirements of this Regulation shall only apply to the following locations in such facilities:

(.1) Any generally accessible seating area where food or drink can be consumed by customers. Such seating must be cordoned off and screening must be provided to prevent access to those who do not comply with the vaccination requirements required by this Regulation. Indoor Dining Workers serving such seating area must also comply with the vaccination requirements.

(.2) Any establishment in a grocery store, food court or market, or similar location that provides an indoor seating area that is used for dining associated with such establishment, such as seating at a counter served by the establishment or a seating area associated with an establishment at which table service is provided. Customers making use of such seating area and all workers at such establishment must comply with the vaccination requirements of this Regulation.

(ii) Onsite Eating Locations at Airport Facilities. With respect to food service and dining locations in airport facilities, the vaccination requirements of this Regulation do not apply to such facilities, except with respect to the following specific food service and dining locations:

(.1) Any location that provides a restaurant style indoor seating area that is used for the consumption of food or beverages sold by such establishment that is enclosed from other areas of the airport on three or more sides. Customers making use of such seating area and all workers at such establishment must comply with the vaccinate requirements of this Regulation.

(.2) Any establishment that provides seating at a bar-style service counter that is used for consumption of food or beverages sold exclusively by such establishment. Customers making use of such counter area and all workers at such establishment must comply with the vaccination requirements of this Regulation.

(C) Additional Testing Requirements for Indoor Dining Locations that Seat Over 1,000 Customers. Indoor Dining Locations that seat over 1,000 customers, such as sports and large entertainment venues, must require any unvaccinated individual over five (5) years and three (3) months of age that qualifies for an exemption or exception under Section 4(b) or (c) of this Regulation to submit proof of a negative PCR or antigen test for COVID-19 from a sample that was collected from such individual within the twenty-four (24) hours preceding such individuals' entrance into the Indoor Dining Location.

(D) Private Event Spaces and Homes. Effective January 3, 2022, no individual may host or permit a gathering of 25 (twenty-five) or more individuals at an Indoor Dining Location in any private place, including a residence, private club, church or other facility, unless all attendees either (i) have received a Completed Vaccination Series; or (ii) qualify for an exemption or exception under Section 4(b) or (c) of this Regulation.

(E) Optional Exception for Testing Prior to January 17, 2022: Notwithstanding any other provisions of this regulation, prior to January 17, 2022, a business may choose to accept proof of a negative PCR or antigen test for COVID-19 from a sample that was collected from a customer within twenty-four (24) hours of the date of entrance to the Indoor Dining Location in lieu of requiring such customer to provide a vaccination status or claim an exemption. This authorization expires on January 17, 2022.

Section 3. Vaccination and Exemption Requirements for Indoor Dining Workers.

(A) General Rule – Indoor Dining Workers. No business serving or providing food at an Indoor Dining Location shall employ (including self-employ), contract with, or otherwise utilize the services of an Indoor Dining Worker after the relevant dates below unless such Indoor Dining Worker: (a) has been vaccinated in accordance with the following requirements; or (b) has received an exemption under Section 3(B), below, from such Indoor Dining Worker’s employer or the individual or entity that has engaged such Indoor Dining Worker’s services, and such worker complies with the accommodations adopted by the business for unvaccinated Indoor Dining Workers:

(i) Effective **January 3, 2022**, an Indoor Dining Worker must have received at least one dose of an Approved COVID-19 Vaccine.

(ii) Effective **February 3, 2022**, an Indoor Dining Worker must have received a Completed Vaccination Series.

(B) Exemptions and Accommodations for Indoor Dining Workers.

For the purposes of this Regulation only, and unless the business has adopted more strict requirements for its operations (subject to applicable law), a business subject to this Regulation shall grant an Indoor Dining Worker an exemption from the vaccination requirements of this Regulation if such individual qualifies for one or both of the exemptions below and agrees in writing to abide by the accommodation(s) required by the business serving or providing food at the Indoor Dining Location.

(i) Medical Exemption. For the purpose of this Regulation only, an exemption shall be granted if the business employing or otherwise engaging the services of the Indoor Dining Worker determines that the administration of any COVID-19 vaccine is contraindicated because the administration would be detrimental to the health of the Indoor Dining Worker. An Indoor Dining Worker shall request an exemption by submitting a certification from a licensed healthcare provider (meaning a physician, nurse practitioner, or physician assistant, licensed by an authorized state licensing board) that has provided an in-person physical

examination of the Indoor Dining Worker on at least one occasion certifying that the exemption applies and stating the specific reason that the vaccine is contraindicated for the Indoor Dining Worker. Such certification must be signed by both the healthcare provider and the Indoor Dining Worker subject to the requirements and penalties of Section 1-108 of The Philadelphia Code and in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(ii) **Religious Exemption.** For the purpose of this Regulation only, an exemption shall be granted if the Indoor Dining Worker certifies in writing that such individual has a sincerely held religious belief that precludes such worker from receiving the COVID-19 vaccination and that the worker understands that philosophical, moral, or other non-religious objections to receiving the vaccine will not be accepted. Such certification must be signed by the Indoor Dining Worker subject to the requirements and penalties of Section 1-108 of The Philadelphia Code and in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(C) **Accommodations for Exempt Indoor Dining Workers:** For the purpose of this Regulation only, each business serving or providing food at an Indoor Dining Location or at an Indoor Dining Location shall take steps to assure that each Indoor Dining Worker that has been granted an exemption under Section 3(B), above, is tested for COVID-19 on at least a weekly basis, and shall adopt one or more of the following accommodations for each such Indoor Dining Worker, provided that all individuals in such location must continue to wear face masks or other face coverings consistent with the June 15, 2021 Emergency Order Establishing Safety Measures for Full Reopening to Prevent the Spread of COVID-19, as it has been amended:

(i) **Masking:** Requiring the exempt Indoor Dining Worker to double mask indoors at all times while working. For the purpose of this Regulation, double masking means wearing a cloth mask tightly fitted over a properly fitted surgical mask or wearing a well fitted respirator equivalent to an N95.

(ii) **Virtual accommodation:** If feasible, allowing an Indoor Dining Worker to engage with the business through any manner such that the individual does not come into contact with other workers or customers of the business at any Indoor Dining Location.

(D) **Documentation Required:** Each business subject to this regulation shall maintain documentation of the vaccination status of each affiliated Indoor Dining Worker, any exemption requested by an Indoor Dining Worker under this Section, including all certifications submitted, whether or not such exemption request was granted and why, the accommodation or accommodations granted to each exempt Indoor Dining Worker, and records of ongoing COVID-19 testing for each exempt Indoor Dining Worker.

Section 4. Vaccination and Exemption Requirements for Diners and Other Non-Indoor Dining Workers.

(A) **General Rule – Diners and Other Non-Indoor Dining Workers.** Effective January 3, 2022, no business shall permit an individual who has not received a Completed Vaccination Series, including a customer, client, volunteer or employee of a

contractor of the business (but not including an individual with respect to whom the provisions of Sections 3 (Indoor Dining Workers), above, or Section 5 (Athletes, Performers, and Supporting Staff), below, apply), to be present at an Indoor Dining Location operated by such business or where such business operates unless:

(i) The individual has received a religious or medical exemption under subsection (B), below, or is a child under 12 that is excepted or subject to a modified requirement under subsections (C), below; and

(ii) For Indoor Seating Locations that seat more than 1,000 people only, the unvaccinated individual is over five (5) years and 3 months of age, the individual has submitted a negative PCR or antigen test for COVID-19 from a sample that was collected from such individual within twenty-four (24) hours of the date of entrance to the Indoor Dining Location.

(B) Medical and Religious Exemptions. An individual may establish an exemption for purposes of this Section 4 by signing a certification as follows, subject to the requirements and penalties of Section 1-108 of The Philadelphia Code.

(i) **Medical Exemption.** For the purpose of this Regulation only, a certification signed by a licensed healthcare provider (meaning a physician, nurse practitioner, or physician assistant, licensed by an authorized state licensing board) who has conducted an in-person physical examination of the individual on at least one occasion certifying that receiving an any Approved COVID-19 Vaccine would be detrimental to the health of the individual and that the healthcare provider has medically advised the individual not to receive any Approved COVID-19 Vaccine. The certification shall include the signature, printed name, and contact information of the individual and the licensed healthcare provider and shall be in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(ii) **Religious Exemption.** For the purpose of this Regulation only, an exemption shall be granted if the individual certifies in writing that such individual has a sincerely held religious belief that precludes such individual from receiving any Approved COVID-19 Vaccine; and that the individual understands that philosophical, moral, or other non-religious objections to receiving the vaccine will not be accepted. The certification shall include the signature, printed name, and contact information of the individual and shall be in substantially the same form as a sample certification that the Department shall make available on the Department's website.

(C) Exception and Modified Rules For Children Under 12.

(i) For the purpose of this Regulation and the requirements of this Section 4, an individual that is in an age group for which there is no Approved COVID-19 Vaccine, currently individuals under five (5) years of age, is not subject to the vaccination requirements of this Regulation until such individual has qualified for vaccination for at least three months. No certification shall be required to be submitted or maintained related to this age-based exception.

(ii) Prior to **February 3, 2022**, children five (5) years and three (3)

months of age and older, but under twelve (12) years of age, are subject to a modified requirement and are excepted from the requirement to have received a full Completed Vaccination Series, so long as such child has received at least one dose of an Approved COVID-19 Vaccine at the time the child seeks to enter the Indoor Dining Location. This modified requirement expires February 3, 2022.

Section 5. Athletes, Performers, and Supporting Staff.

Athletes, performers, and supporting staff (such as coaches, trainers, road crew, and similar supportive staff) competing or performing at Indoor Dining Locations are not subject to this Regulation but must strictly comply with a safety plan approved by the Department for the facility at issue.

Section 6. Verifying Vaccine Status and Exemptions. Businesses governed by this Regulation may rely in good faith on (A) observably credible records of vaccination status provided by an individual, including Indoor Dining Workers, such as copies or pictures of a Center for Disease Control Vaccination Card or a state or authorized local government issued vaccination record; (B) a certification provided by an Indoor Dining Worker consistent with Section 3(B) or a certification provided by any other individual consistent with Section 4(B) of this Regulation. Individuals eighteen years of age or older must provide a photo identification card, or such other reliable form of identification identified by the Department in guidance, to establish identity consistent with the vaccine status and exemption documentation provided.

Section 7. Interpretation and Implementation:

(A) **Stricter Regulation Permitted.** Nothing in this Regulation prohibits any business, entity, or individual from implementing more stringent vaccine, masking, distancing or other or mandate on its customers or those it employs, contracts with, or engages in a volunteer capacity, whether or not such business or individual is covered under this Regulation, subject to all applicable law. Businesses choosing to impose more stringent requirements must comply with all other applicable laws, including but not limited to the Americans with Disabilities Act of 1990.

(B) **Conflicts.** Except to the extent of a direct conflict, this regulation shall be interpreted as consistent with applicable orders and requirements of the Commonwealth of Pennsylvania. In the event of a direct conflict, the most restrictive order or requirement controls. The City shall continue reviewing inquiries and submissions regarding the applicability of the City's orders to businesses and activities.

(C) **Inspection Required.** Each business serving or providing food at an Indoor Dining Location or at an Indoor Dining Location must allow inspection of records required to be maintained under Sections 3(D) and ongoing operations by the Department as a condition of operation. Copies of such records must be provided to the Department upon request. Any records inspected by or provided to the Department will be maintained confidentially consistent with the requirements of 35 P.S. § 521.15.

(D) **Individual Liability.** Falsely submitting certifications required by this

Regulation shall be a violation of Section 1-108 of The Philadelphia Code.

(E) Penalties. Failure to comply with this Regulation shall result in orders to cease operations and the imposition of penalties, fines, license suspensions, and other remedies as provided for by law, including such penalties and remedies set forth in the April 29, 2020, Emergency Regulation of the Board of Health Governing the Control and Prevention of COVID-19 Pertaining to Fines and Penalties.

(F) Duration. This regulation shall remain in effect until rescinded, superseded or amended by further order or regulation.

(G) Guidance. The Department of Health is directed to promulgate guidance by order or otherwise to interpret and otherwise implement the requirements of this Regulation.

Section 7. Effective Date: This regulation is effective immediately upon the filing of this regulation with the Department of Records.