



U. S. House of Representatives  
Washington, DC 20515-3816

November 9, 2021

The Honorable Josh Shapiro  
Attorney General of Pennsylvania  
Pennsylvania Office of Attorney General  
Strawberry Square  
Harrisburg, PA 17120

Dear Attorney General Shapiro:

We write to request information on the steps you plan to take to address employers' concerns with President Biden's unconstitutional vaccine mandate. As you are aware, on November 5, 2021, the Occupational Safety and Health Administration (OSHA) of the Department of Labor issued an interim final rule titled COVID-19 Vaccination and Testing; Emergency Temporary Standard.<sup>1</sup> The rule will require businesses in Pennsylvania with more than 100 employees to mandate vaccines for their employees. Unvaccinated employees will be required to undergo weekly COVID-19 testing and wear masks in the workplace. Employers who do not comply face stiff penalties ranging from \$13,653 to \$136,532. This mandate will further strain already tight labor markets by adding to the challenges employers face to fill open jobs, propelling economic uncertainty.

Pennsylvanians, in consultation with their doctors, should have the freedom to determine whether or not they want to receive a vaccine. Allowing Pennsylvanians to make this choice has already yielded high levels of vaccination across the Commonwealth. On October 13, 2021, Governor Wolf tweeted "SEVENTY PERCENT of Pennsylvania adults are now fully vaccinated against COVID-19."<sup>2</sup> Given that such a high level of voluntary vaccination has already been achieved, it is our belief that President Biden's mandate is unnecessary. We believe this will prove to be ineffective, reduce employment, disrupt supply chains, and further slowdown Pennsylvania's already sluggish economic recovery.

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<sup>1</sup>Occupational Safety and Health Administration (OSHA) "COVID-19 Vaccination and Testing; Emergency Temporary Standard," OSHA, November 5, 2021. <https://www.federalregister.gov/documents/2021/11/05/2021-23643/covid-19-vaccination-and-testing-emergency-temporary-standard>

<sup>2</sup> Governor Tom Wolf, "SEVENTY PERCENT of Pennsylvania adults are now fully vaccinated against COVID-19. This is huge progress when it comes to protecting our communities from illness outbreaks. Stay tuned as we roll out boosters and work on vaccine availability for younger children." October 13, 2021. <https://twitter.com/governortomwolf/status/1448394703775354890>

At the time of writing, 26 states have initiated lawsuits against the Department of Labor in order to strike down the mandate.<sup>3</sup> These efforts are bipartisan. Iowa Attorney General Tom Miller, a Democrat, joined a lawsuit led by Missouri along with Alaska, Arizona, Arkansas, Montana, Nebraska, New Hampshire, North Dakota, South Dakota and Wyoming. Florida, Georgia, and Alabama have also joined together to file a suit against OSHA's mandate. Democrat Governor Laura Kelly of Kansas, whose state has joined litigation against the mandate (with Kentucky, Idaho, Ohio, Oklahoma, Tennessee, and West Virginia) went a step further and publicly expressed her disappointment with President Biden's mandate, arguing, "It is too late to impose a federal standard now that we have already developed systems and strategies that are tailored for our specific needs."<sup>4</sup> On November 6, the Fifth Circuit Court of Appeals stayed implementation of the mandate in response to a suit filed by Louisiana, Mississippi, South Carolina, Texas, and Utah, citing the potential statutory and constitutional violations of the Biden Administration's actions.<sup>5</sup> Pennsylvania must swiftly join these states' efforts and oppose the mandate.

We implore your office to explore all possible actions to prevent President Biden's unconstitutional vaccine mandate from further harming Pennsylvania's hardworking employers and employees. We strongly urge you to add the Commonwealth to any one of the legal efforts spearheaded by other states to nullify the mandate or initiate new legal action on behalf of the Commonwealth. Furthermore, we request that you explore all actions that may exempt Pennsylvanians or block enforcement of the mandate within the Commonwealth.

As such, we request that you please provide answers to the following questions.

1. Are you planning to join state-led lawsuits currently underway to nullify the Emergency Temporary Standard? If so, when will Pennsylvania join a lawsuit? If not, will Pennsylvania initiate its own lawsuit?
2. What legal recourse can private businesses explore to oppose or be exempted from the vaccine mandate?
3. What steps are you and Governor Wolf taking to prevent enforcement of the vaccine mandate in Pennsylvania?

We look forward to receiving your response no later than 5:00 p.m. on Friday, November 12.

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<sup>3</sup> David A. Lieb, Geoff Mulvihill, and Andrew DeMillo, "Lawsuits over workplace vaccine rule focus on states' rights," ABC News, November 5, 2021. <https://abcnews.go.com/Health/wireStory/11-states-file-suit-bidens-business-vaccine-mandate-80989771>

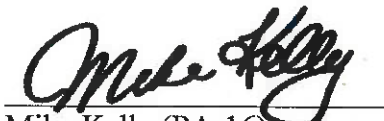
<sup>4</sup> Governor Laura Kelly, "Governor Laura Kelly's Statement Addressing New Federal Vaccine Mandate," Kansas Office of the Governor, November 5, 2021. <https://governor.kansas.gov/governor-laura-kellys-statement-addressing-new-federal-vaccine-mandate/>

<sup>5</sup> Lexi Lonas, "Appeals court stays Biden vaccine mandate for businesses," The Hill, November 6, 2021. <https://thehill.com/policy/healthcare/580403-appeals-court-stays-biden-vaccine-mandate-for-businesses>

Sincerely,



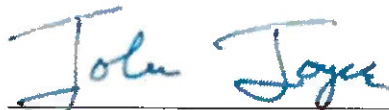
Lloyd Smucker (PA-11)  
United States Representative



Mike Kelly (PA-16)  
United States Representative



Glenn "GT" Thompson (PA-15)  
United States Representative



John Joyce, M.D. (PA-13)  
United States Representative



Guy Reschenthaler (PA-14)  
United States Representative



Fred Keller (PA-12)  
United States Representative



Dan Meuser (PA-9)  
United States Representative



Brian Fitzpatrick (PA-1)  
United States Representative



Scott Perry (PA-10)  
United States Representative

CC Governor Tom Wolf