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VIA EMAIL

June 8, 2022

Aileen M. Ugalde, Esq.
University of Miami
1320 South Dixie Highway
Suite 1250
Coral Gables, FL 33146
[REDACTED]

Re: Meningococcal Meningitis Vaccine Requirement for Undergraduate Students

Dear Attorney Ugalde:

We write on behalf of our client, [REDACTED], the parent of a student on the University of Miami's ("UM") undergraduate waitlist. It has come to our attention that UM has discontinued offering its undergraduate students the option to decline the meningococcal meningitis vaccines,¹ even though Florida law requires UM to provide an opt-out of this vaccine. Therefore, we respectfully demand UM cease its violation of Florida law by offering its undergraduate students the option to decline the meningococcal meningitis vaccine.

I. UM IS IN VIOLATION OF FLA. STAT. SECTION 1006.69

Fla. Stat. Section 1006.69 ("Section 1006.69") requires a postsecondary educational institution to offer students the option to decline vaccination against meningococcal meningitis via waiver. The statute states the following:

An individual enrolled in a postsecondary educational institution who will be residing in on-campus housing shall provide documentation of vaccinations against meningococcal meningitis and hepatitis B **unless the individual, if the individual is 18 years of age or older, or the individual's parent, if the individual is a minor, declines the vaccinations by signing a separate waiver for each of these vaccines**, provided by the institution, acknowledging receipt and review of the information provided.²

¹ See Attachment A.

² Fla. Stat. § 1006.69(2) (Emphasis Added).

Prior to the Summer 2022 semester, UM gave its students the option to decline vaccination against meningococcal meningitis on its Immunization Record Form (the “**Old Form**”).³ The Old Form allowed undergraduate and graduate students to decline vaccination against meningococcal meningitis. However, the option for undergraduate students to decline vaccination against meningococcal meningitis is absent in the most recent version of UM’s Immunization Record Form (“**New Form**”).⁴ Instead, the New Form only provides graduate students with the option to decline vaccination against meningococcal meningitis. Pursuant Section 1006.69, the option to decline the vaccines is not limited to graduate students and applies to “individual[s] enrolled in a postsecondary educational institution.”⁵ Therefore, UM violated Florida law by removing the option to decline the meningococcal meningitis vaccines for undergraduate students from the New Form.

II. UM IS LIABLE FOR THE FRAUDULENT MISREPRESENTATIONS CONTAINED IN THE NEW FORM

UM is liable for fraudulent misrepresentation for the intentional misrepresentations regarding the meningococcal meningitis vaccine. Under Florida law, the four elements of fraudulent misrepresentation are “(1) a false statement concerning a material fact; (2) the representor’s knowledge that the representation is false; (3) an intention that the representation induces another to act on it; and (4) consequent injury by the party acting in reliance on the representation.”⁶

Here, UM knew it was required to offer both undergraduate and graduate students the option to decline the meningitis vaccines pursuant to Section 1006.69, as shown by the Old Form.⁷ Yet, despite knowing the waiver requirement, the New Form contains material changes that misrepresent the meningitis vaccine requirement.

The New Form differs from the Old Form in the following ways:

(1) On the Old Form, the meningococcal meningitis vaccines were listed under the “**REQUIRED IMMUNIZATIONS OR SIGNATURE DECLINING**” subheading. The meningococcal meningitis vaccines are listed under the “**REQUIRED**” subheading on the New Form.

(2) In addition to moving the meningococcal meningitis vaccines under the “**REQUIRED**” subheading, the New Form also includes the following language: “Meningococcal Meningitis (ACYW) is required of all undergraduate students.”

³ Attachment B (12.20.2021 U of M Immunization Record Form).

⁴ Attachment C (5.20.2021 U of M Immunization Record Form).

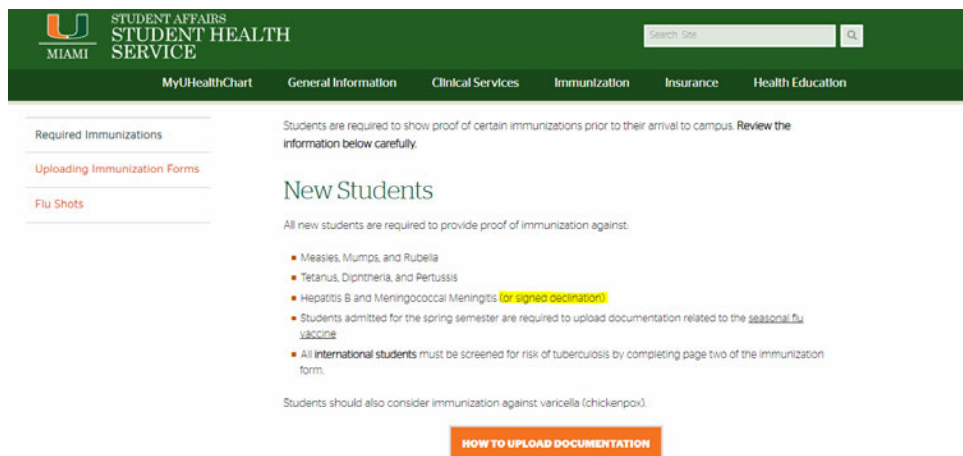
⁵ Fla. Stat. § 1006.69(2).

⁶ See *Johnson v. Davis*, 480 So. 2d 625, 627 (Fla. 1985).

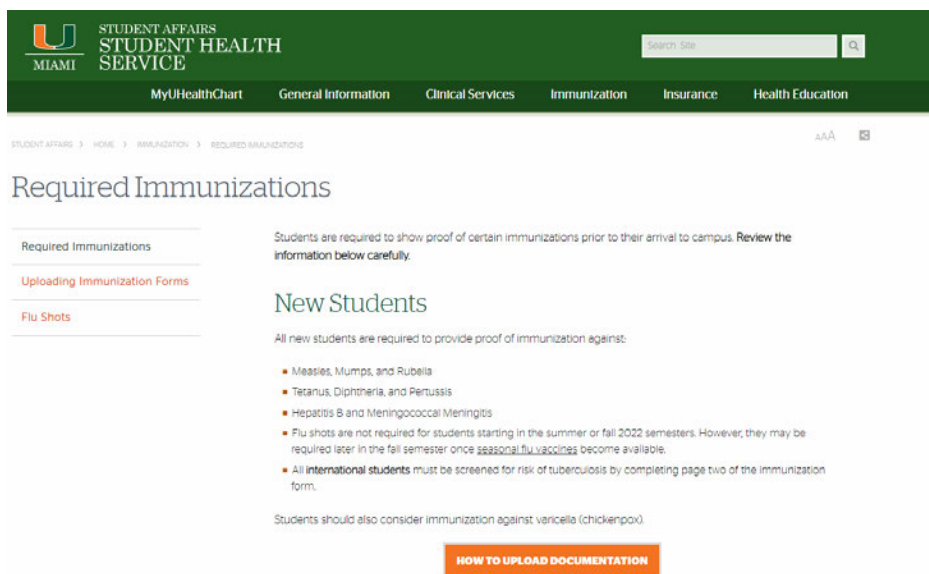
⁷ See Attachment B.

(3) The New Form also includes language indicating only graduate students may decline the meningitis vaccines.⁸

Furthermore, the UM “Student Affairs Student health Service” website has also been similarly altered. The website, on December 20, 2021, appeared as follows:⁹



The same website currently appears as follows:



The UM website also further compounds the deceitfulness of the misrepresentations by threatening new students with canceling their registration if UM’s unlawful vaccination

⁸ See Attachment C.

⁹ See <https://web.archive.org/web/20211220155251/https://studenthealth.studentaffairs.miami.edu/immunization-information/required-immunization/index.html>

requirements go unmet.¹⁰ UM's messaging is misleading. As per Florida law, undergraduate students are not required to receive a meningitis vaccine. If an undergraduate student receives a meningitis vaccine and suffers harm because of the intentional misrepresentation of the vaccine requirement, UM may be liable for fraudulent misrepresentation.

III. CONCLUSION

For the reasons above, we respectfully demand UM reverse its unlawful policy of requiring undergraduate students to receive a meningitis vaccine and comply with Florida law by reinstating the waiver and opt-out provision for undergraduate students. We request a response by **5 PM EST on Friday, June 10, 2022**. Please direct all future communications to Attorney Allison R. Lucas at [REDACTED]

Sincerely,



Jessica Wallace, Esq.
Allison R. Lucas, Esq.

Cc via email: [REDACTED]

¹⁰ See <https://studenthealth.studentaffairs.miami.edu/immunization-information/uploading-immunization-forms/index.html> (stating that “[y]our registration may be canceled if you are not compliant with the University’s immunization requirements.”).

Attachment

A

The Wayback Machine - https://web.archive.org/web/20211220113714/https://studenthealth.studentaffairs.mi...

University of Miami Immunization Record

Complete and return this form before the deadline.

DEADLINES: Fall – July 15th Spring - December 15th
Summer - April 15th**I. TO BE COMPLETED BY STUDENT** (please print)Name _____ UM Student# _____ Date of Birth _____
Last First M. I. mo day year**II. TO BE COMPLETED AND SIGNED BY HEALTH CARE PROVIDER****REQUIRED: DOCUMENTATION OF MEASLES, MUMPS AND RUBELLA IMMUNIZATION, OR LAB EVIDENCE OF IMMUNITY. All students born after 1956 must have received either:****1) Two doses of MMR or serologic proof of immunity to measles, mumps and rubella and 2) Tdap**MMR dose #1 _____ (after age 12 months, and in 1968 or later)
month day yeardose #2 _____ (at least 30 days after dose #1)
month day yearMeasles immunity _____ (lab result must be provided)
month day yearRubella immunity _____ (lab result must be provided)
month day yearMumps immunity _____ (lab result must be provided)
month day yearTdap _____ (one dose on or after 11th birthday)
month day year**REQUIRED IMMUNIZATIONS OR SIGNATURE DECLINING: Hepatitis B (3 shots), Meningococcal Meningitis****Hepatitis B** Dose #1 _____ Dose #2 _____ Dose #3 _____
mo day yr mo day yr mo day yr I have read the information provided and decline the **Hepatitis B** vaccine_____
Signature of student or parent/legal guardian if under 18 years of age date**Meningococcal Meningitis** Menactra/ Menveo or Menomune _____
mo day yr
(recommended for 1st year students living in residence halls. If given before age 16, booster suggested) I have read the information provided and decline the **Meningococcal Meningitis** vaccine_____
Signature of student or parent/legal guardian if under 18 years of age date**RECOMMENDED: Varicella (Chicken Pox)****Varicella** History of disease? yes no Immunity _____
Dose #1 _____ Dose #2 _____
mo day yr mo day yr**COVID-19 VACCINE: Please note this is NOT a requirement at this time but may be a requirement in the future. If you have received it, please include the type, dates and copy of record.** Pfizer (2 doses) Moderna (2 doses) Johnson and Johnson (1 dose) AstaZeneca (2 doses)
 Other: _____ Dose 1 _____ Dose 2 _____
month date year month date year_____
Name & title of physician or health care provider Signature Date_____
Address_____
City State Zip Telephone**Upload form at [MyUHealthChart.com](https://myuhealthchart.com)** Alternatively, email form to: studenthealth@miami.edu,Immunization information is shared with the **FLORIDA SHOTS** registry. Contact studenthealth@miami.edu for registry opt-out information

Attachment

B

University of Miami Immunization Record

Complete and return this form before the deadline.

DEADLINES: Fall – July 15th Spring - December 15th
Summer - April 15th

I. TO BE COMPLETED BY STUDENT (please print)

Name _____ UM Student# _____ Date of Birth _____
Last First M. I. mo day year

II. TO BE COMPLETED AND SIGNED BY HEALTH CARE PROVIDER

REQUIRED: DOCUMENTATION OF MEASLES, MUMPS AND RUBELLA IMMUNIZATION, OR LAB EVIDENCE OF IMMUNITY. All students born after 1956 must have received either:

- 1) Two doses of MMR or serologic proof of immunity to measles, mumps and rubella and 2) Tdap
- 3) Meningococcal Meningitis (ACYW) is required of all undergraduate students

MMR dose #1 _____ (after age 12 months, and in 1968 or later)
month day year

dose #2 _____ (at least 30 days after dose #1)
month day year

Measles immunity _____ (lab result must be provided)
month day year

Rubella immunity _____ (lab result must be provided)
month day year

Mumps immunity _____ (lab result must be provided)
month day year

Tdap _____ (one dose on or after 11th birthday)
month day year

Meningococcal Meningitis Menactra/ Menveo or Menomune _____
mo day yr

Graduate students ONLY who wish to decline meningitis vaccine can sign declination below:

- I have read the information provided and decline the **Meningitis** vaccine

Signature of student or parent/legal guardian if under 18 years of age date

REQUIRED IMMUNIZATIONS OR SIGNATURE DECLINING: Hepatitis B (3 shots)

Hepatitis B Dose #1 _____ Dose #2 _____ Dose #3 _____
mo day yr mo day yr mo day yr

- I have read the information provided and decline the **Hepatitis B** vaccine

Signature of student or parent/legal guardian if under 18 years of age date

RECOMMENDED: Varicella (Chicken Pox)

Varicella History of disease? yes no Immunity _____
mo day yr

Dose #1 _____ Dose #2 _____
mo day yr mo day yr

COVID-19 VACCINE: Please note this is NOT a requirement at this time but may be a requirement in the future. If you have received it, please include the type, dates and copy of record.

Pfizer (2 doses) Moderna (2 doses) Johnson and Johnson (1 dose)

Other: _____

Dose 1 _____ Dose 2 _____ Booster _____
month date year month date year month date year

Name & title of physician or health care provider Signature Date

Address

City State Zip Telephone

Upload form to: MyUHealthChart.com Alternatively, email form to: studenthealth@miami.edu

University of Miami Immunization Record - page 2

Name _____ UM Student # _____
Last First M. I.

REQUIRED: ALL INTERNATIONAL STUDENTS must answer the questions on page two of this form to determine the requirement for additional Tuberculosis (Tb) screening. Tb testing must be completed within six months prior to arrival on campus, or by one month after arrival on campus.

III: TUBERCULOSIS SCREENING FOR INTERNATIONAL STUDENTS:

1. Have you been in close contact with anyone sick with tuberculosis? Yes No

If yes, tuberculosis testing is required, regardless of country of origin.

2. Were you born in a country other than those listed below? Yes No

If yes, tuberculosis testing is required.

Please list country of birth: _____

3. Have you traveled to any country other than those listed below for greater than one month? Yes No

If yes, tuberculosis testing is required.

Please list all countries that you have lived in or traveled to for greater than one month:

If you answered yes to any of the above questions, PPD testing is necessary and must be performed within six months prior to arrival on campus, or by one month after arrival on campus.

If you answered no to all of the above questions, no additional tuberculosis testing is required.

Signature of student: _____

Date _____

Low Risk Countries

Albania	Czech Republic	Italy	Saint Kitts and Nevis
Andorra	Denmark	Jamaica	Saint Lucia
Antigua and Barbuda	Dominica	Jordan	Samoa
Australia	Egypt	Lebanon	Saudi Arabia
Austria	Fiji	Luxembourg	Slovakia
Bahamas	Finland	Malta	Slovenia
Barbados	France	Mexico	Spain
Belgium	Germany	Monaco	Sweden
Bermuda	Greece	Montserrat	Switzerland
British Virgin Islands	Greenland	Nauru	United Arab Emirates
Canada	Grenada	Netherlands	United Kingdom
Cayman Islands	Hungary	Netherlands Antilles	United States of America
Chile	Iceland	New Zealand	US Virgin Islands
Costa Rica	Iran	Norway	West Bank and Gaza Strip
Cuba	Ireland	Oman	
Cyprus	Israel	Puerto Rico	

PPD Testing (required if you answered yes to any of the above questions)

PPD (Mantoux 5 TU only) Negative Positive _____ mm induration _____ month _____ year

If positive, a chest X-ray is required (copy of chest x-ray report must be attached to this form):

Chest X-ray Normal Abnormal _____ date

If PPD was positive and chest X-ray was negative, was treatment of latent Tb accepted? Yes No

Details of treatment including drug, dose, frequency and duration. _____

Signature of Health Care Provider: _____

Date _____