

20200 West Dixie Highway, Suite 902, Aventura, FL 33180  
sirillp.com | P: (786) 244-5660 | F: (646) 417-5967

## 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,<sup>1</sup> 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.<sup>2</sup>

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<sup>1</sup> See Attachment A.

<sup>2</sup> 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**”).<sup>3</sup> 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**”).<sup>4</sup> 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.”<sup>5</sup> 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.”<sup>6</sup>

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.<sup>7</sup> 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.”

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<sup>3</sup> Attachment B (12.20.2021 U of M Immunization Record Form).

<sup>4</sup> Attachment C (5.20.2021 U of M Immunization Record Form).

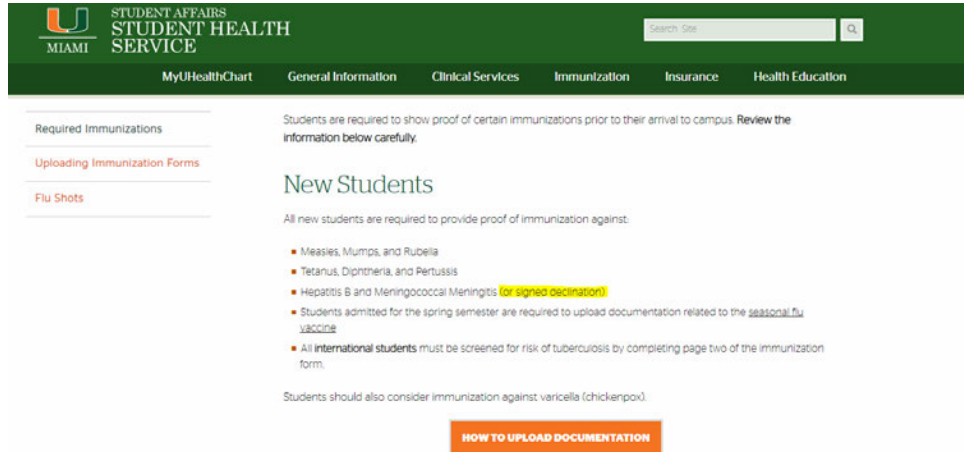
<sup>5</sup> Fla. Stat. § 1006.69(2).

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

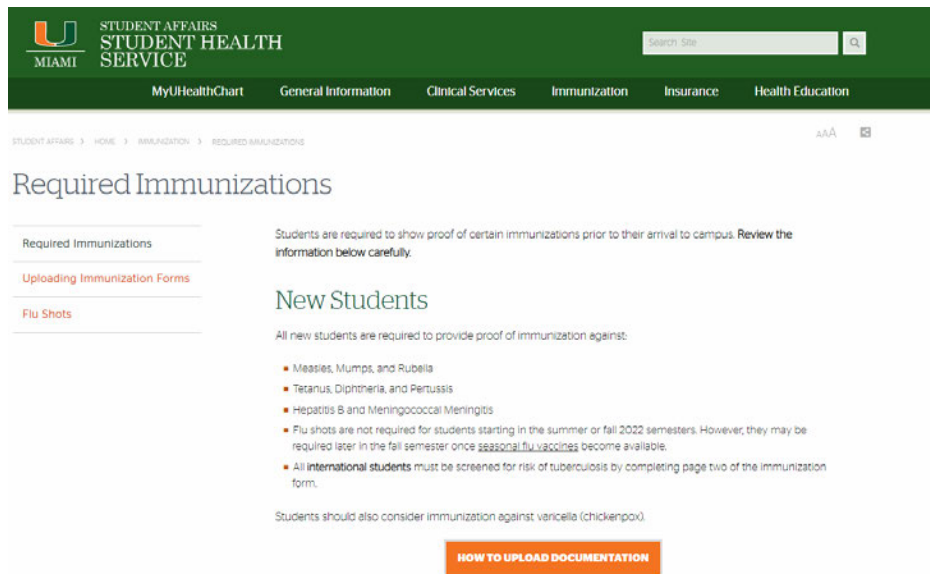
<sup>7</sup> See Attachment B.

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

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



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

<sup>8</sup> See Attachment C.


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

requirements go unmet.<sup>10</sup> 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]

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<sup>10</sup> 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.”).