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Takoma Park, Maryland

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Montgomery County Council
Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

Dear Councilmembers:

I write you today in strong opposition to the proposed Board of Health regulation that would require proof of vaccination to enter certain public places.

I want to start by acknowledging the positive motivations behind this regulation. I understand that you want to control the SARS-CoV-2 pandemic's effects in our region to the best of your ability. I understand that you have the well-being of individuals, businesses, and society at large in mind as you seek to join other like-minded jurisdictions in requiring individuals to prove their vaccine status before entering certain places of public accommodation.

But no matter your best intentions, you must balance public health interventions against the rights of individuals, such as: bodily autonomy in medical decision-making, freedom of association, and privacy. Given the facts available to us today, this balance comes out against the proposed vaccine requirements. The primary reason for this outcome is as simple as it is direct: your proposed intervention will not work.

In reading the proposed regulation, I noticed that one of its stated goals is the reduction in transmission of SARS-CoV-2. That aim is laudable, but the regulation is incapable of achieving it. This is because the omicron variant currently predominates in the United States. Unfortunately, omicron obviates most of the transmission and infection prevention benefits of vaccination. Only recent vaccine recipients have significant transmission or infection reduction outcomes in this scenario, and those only for perhaps ten weeks. This is the so-called "waning immunity" discussed by public health officials, and it occurs because antibody titers naturally diminish over time. Because omicron is so much more infectious than prior variants, this normal reduction in circulating antibodies makes vaccination requirements wholly inadequate to control the spread of this virus.

Another goal of your proposed regulation is to reduce severe illness in those suffering from COVID-19. However, the phased-in requirements for vaccine doses will by themselves guarantee that the regulation cannot accomplish this goal. By January 22, proof of only one dose of a vaccine will be required, and that only for individuals 12 or older. However, a single dose of any of the approved vaccines provides limited protection against adverse health outcomes in COVID patients. At the end of your timeline, by the late date of February 15, only two mRNA doses will be required for those 12 and above. And even then, a single shot of the Johnson and Johnson vaccine will be considered equally compliant,

notwithstanding the significant differences in efficacy between a single J&J dose and two doses of mRNA vaccines. Such standards cannot achieve your stated goal.

A third goal, gleaned from paragraphs 1 and 3 of the resolution's background section, is to blunt the current omicron surge. Sadly, even if the foregoing objections were totally inapposite, the fact remains that the phase-in timeline laid out in this proposal means that the intervention would come far too late to curb omicron's spread. We have good reason to believe, based on South African and UK data, that omicron-driven waves tend to exponentiate at a profound rate and, consequently, burn through an entire population with great speed. Said another way: this enormous omicron wave will have begun abating on its own before your intervention even takes legal effect. On this point, then, the proposal is both inadequate and moot.

A fourth goal, found in background paragraph 5, is to increase vaccination rates in the county by placing a hurdle between individuals and a night on the town Montgomery County. All evidence available at this time indicates that vaccination against SARS-CoV-2 is a wise choice for the vast majority of people, so encouraging the population to be vaccinated is a reasonable aim. However, there may be very little ground left to gain at any cost. At the last council meeting, Sean O'Donnell, Public Health and Emergency Preparedness Manager, provided information about our county's vaccination status. Astoundingly and wonderfully, we have a ~94% full vaccination rate among individuals 12 and older. There are so few Montgomery County residents left to vaccinate that resorting to extreme measures like proof-of-vaccination requirements is a response disproportionate to the need.

And no matter what its goal is, the proposed regulation is swallowed by its exceptions. According to the proposed regulation, the coronavirus apparently spreads apace in restaurants, bars, theaters, gyms, and hotels, but not in churches, grocery stores, hardware stores, day cares, or DMV offices. Such arbitrary designations are highly ineffective, likely counterproductive, and certainly unworthy of legal enshrinement.

Finally, I should highlight that regardless of section 6 paragraph (a) assigning enforcement to specific public authorities, the real-world enforcement of these requirements will fall on our beleaguered service industry workers. These tired, overworked residents are in line behind only medical and education professionals in suffering the effects of this pandemic. Please imagine a single mother waitressing to pay the bills, risking infection every day, barely covering her expenses, being yelled at by an irate patron for whom—rightly or wrongly—the demand to procure proof of vaccination was the last straw that day. How does this help the waitress, the patron, or Montgomery County at large?

In short, if the stated aims of this proposal cannot be met by its very terms, then where is its merit? And if its benefits are outweighed by its burdens, why entertain the proposal at all? I urge you to avoid this misadventure and focus on assistive solutions—providing information, care, and other resources to members of the community as you have throughout this pandemic.

Thank you very much.

Sincerely,

Jon M. Brescia