

To: Montgomery County (MD) Council

From: Karen Hauptman, of Chevy Chase MD

Re: Montgomery County Board of Health Regulation to Prevent the Spread of COVID-19 in the County-Vaccination Requirements to Enter Bars, Restaurants, Fitness Centers and Other Covered Establishments

Date: 18 January 2022

I am Montgomery County, Maryland, born and bred and am currently living here with my husband and two young daughters. I am grateful for the widespread availability of vaccines that blunt the worst effects of COVID-19, and for the efforts of local health care and front-line workers who have supported our community during these extraordinary times. And I urge the Council to table, indefinitely, the proposed regulation requiring proof of vaccination to enter various establishments in Montgomery County. While I am a staunch believer in the benefits of vaccination, particularly to vulnerable populations, it would be a grave mistake for the county to adopt this ill-advised and harmful regulation.

First, the purpose of such a regulation is unclear. The Council's website describes the regulation "to Prevent the Spread of COVID-19 in the County" – however, as the current Omicron variant surge has demonstrated, vaccination is not meaningfully effective at preventing the spread, although it is very effective at preventing severe illness and death. If the purpose cannot be to "prevent the spread," one must guess at other purposes:

- To encourage/coerce more residents into receiving the vaccine? If that is the goal, it has a very narrow target audience, since Montgomery County is one of the most-vaccinated counties in the nation (according to the County dashboard, 95%* of county residents have received at least one dose, and 84.9% of residents have completed their full dose schedule). The remaining residents are either ineligible, or unlikely to be swayed by such measures, and more likely to take their business – and tax dollars – elsewhere.
- To protect hospital capacity? As noted above, the local vaccination rates are very high. If this is the goal, a better approach would be to ensure that hospitals are as fully staffed as possible and that residents have access to testing and treatments outside of hospitals, so that they do not take up beds and staff attention unnecessarily.
- To prevent DC residents, who are now subject to a similar measure (and only 68% of whom are fully vaccinated, according to the district's dashboard), from patronizing County businesses? If that is the goal, one must note the disparate impact that this resolution will have on members of minority communities who may live in the District and work or socialize in the County.
- To telegraph a "serious about COVID" message to voters? I cannot speak for other voters, but I would prefer the Council focus on the shocking rise in violent crime, an area where the County is actually seeing an extremely negative trend and which should be the main focus if the Council is concerned with improving the lives and safety of residents.
- To bolster the campaigns of Mark Elrich and Council members who are running for re-election in this deeply liberal district where local government is failing on other fronts (see above)? But to even suggest this would be too cynical.

*The CDC has capped the percent of population coverage metrics at 95%, per the County dashboard website. This means that the percent of county residents who have received at least one shot cannot be reported to be any higher.

Second, the impact of this regulation on businesses is onerous and inappropriate.

- The decision of who a business serves belongs to that business, not to the local government. The local government's duty, historically and traditionally, is to ensure equality of access, not to limit access (cast your mind to most court cases and regulations over the past six or seven decades, and they trend toward requiring business to serve all patrons equally, rather than toward requiring businesses to ensure patrons meet certain criteria).
- Businesses, many of which have already been struggling due to the various lockdowns, restrictions, labor shortages and supply chain issues of the past two years, will now be required to turn patrons away, or risk consequences from the county. This regulation will cost businesses money at a time when many can ill afford it, both in terms of lost revenues and cost of enforcement. One would not blame local business owners if they decided to move to a jurisdiction more friendly to their livelihoods.

Finally, what is the endgame? If the regulation were to be considered an extraordinary measure for an extraordinary time, what condition would need to be true for it to be ended? Pegging a return to normalcy to positive test rates makes little sense, given the trend of the virus to increase in transmissibility while decreasing in virulence. Relying on the CDC or WHO to declare an end to the pandemic would mean that County policy would be effectively dictated by institutions whose scope of concern is irrelevantly broad. Or perhaps the end-game is that the roughly one-third of Americans who choose to not receive the vaccine should be permanently barred from living, working, and visiting in the county? That would send a strong message indeed – and not one that I can support as a resident who believes in the sanctity of all human life, regardless of whether an individual agrees with me.

Many scientists and health policy experts are now expressing hope that we are turning a corner in the pandemic, toward COVID-19 as an endemic disease with many mitigation and treatment options. Now is the time for the County to be supporting its citizens – making vaccination and testing available to all who want them, enabling businesses to turn a profit, delivering a functioning public school system, and ensuring safety and security for all who live, work, and visit in the County. Now is not the time to pass a regulation with no clear purpose, that will bring no tangible benefit to the County in terms of health or well-being, and that that will actively harm businesses, individuals, and the County at large.

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