

# Unique Christmas Gift: Influenza Vaccine or Termination

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## Historical Background

In 1991, as a new Indiana University South Bend baccalaureate registered nurse, I began my career in the critical care unit at the then Goshen General Hospital in Goshen, Indiana.

It was a community hospital staffed with a number of Anabaptist and Mennonite administrative personnel, physicians, nurses, and auxiliary staff. The renowned Goshen College is directly across the street, and as we serve our patients we enjoy the nostalgic cathedral clock as the chimes play throughout the day.

In the 1950s, one of the chief surgeons was Ernest Smucker, M.D. His sons have followed. One retired and another, Mark Smucker, M.D., one of the pioneer cardiology interventionists, now heads the Heart and Cardiovascular Services at Indiana University Health Goshen Hospital.

In the mid to late 1990s Goshen General Hospital became Goshen Health System. At this time some of the private physicians became employees of the hospital. Later Goshen Health System became affiliated with Clarian Health. In 2010–2011, Goshen Health System/Clarian Health became Indiana University Health Goshen Hospital (IUHGH).

The hospital has had an overall excellent retention of nursing staff. In recent years, the critical care and intensive care units have been exceptional. I would have been employed for 22 years this February. The core group of 10 to 12 RNs plus the Unit Director have all been employed longer than me.

Our patients are often literally our family: blood relatives or close neighbors. IUHGH is known for the “Christian, friendly, compassionate” milieu, according to patient and patient family comments.

## New Influenza Vaccine Policy

There are varied opinions, beliefs and emotions regarding influenza vaccination. I am not opposed to all vaccines. I fully support well-studied vaccines that eradicate a disease, such as polio. But the influenza vaccine is not such a vaccine.

As staff we heard the rumblings of a mandatory flu vaccine in the fall of 2011. No further murmurings were heard until suddenly in September 2012 an email came to all employees announcing a mandatory flu vaccine for all hospital staff, affiliated physicians, volunteers, and vendors.

An option for a medical or religious exemption was to be filed by October 1, 2012.

The policy provided for medical exemptions for: 1) severe (life threatening) egg allergy or severe allergy to any component of the vaccine; 2) severe reaction after a dose of influenza vaccine; 3) history of Guillain Barré syndrome within 6 weeks of influenza vaccination.

To apply for a religious exemption, one was required to write a brief description of one’s religious belief related to the influenza vaccine.

An influenza board was appointed for each facility, but each board was given the same flu vaccine exemption protocol to follow. These guidelines were provided by IU Health, Indianapolis, according to Whitney Ertel, an IU Health spokesperson (personal communication). At IUHGH members of the flu board were: an infectious disease physician/county health officer, the hospital chief of staff (COS), the chief operating officer (COO), and a corporate attorney.

## Staff Experiences with Exemptions

At first, as staff we applied for exemption individually. Some went online and researched the most effective options. Others, like myself, did not do research. We truly believed that the hospital’s values of compassion, accountability, and respect would be reflected in their response to our applications.

Unfortunately, some that attempted a medical exemption first were immediately denied. So we had our primary care physicians, who are affiliated with or have privileges at IUHGH, write a statement for us. Our appeals had to be submitted by Nov 15. Those were all denied.

The following actual occurrences, verified personally by me, illustrate the severity of the medical conditions required for an exemption: 1) An exemption was denied in a documented case of pre-anaphylaxis. 2) Those claiming allergies were referred to an allergist to prove their existence through testing. 3) An employee who was diagnosed with multiple sclerosis soon after receiving flu vaccine in 2011, and who was advised by Mayo Clinic physicians never to have vaccines again, eventually got an exemption, but only after satisfying demands for verification.

After we realized we had no hope of a medical exemption we scrambled to submit a religious exemption. Some had initially filed for religious exemption, but they too were denied. We were required to produce evidence of being part of a recognized religion that teaches that members should not accept vaccines or other preventive medical treatments. However, to require membership in an organized religion violates Title VII of the Federal Civil Rights Act and the First Amendment to the U.S. Constitution.

One employee who filed for a religious exemption was asked these questions by the flu board: 1) Is your opposition to vaccination consistent for all vaccines? 2) If you have children, have you refused to have them vaccinated? 3) Do you participate in a religious community that shares your beliefs about vaccinations? 4) How long have you held your beliefs?

This employee’s children were not vaccinated, and the beliefs had been held for 13 years. In response to the third question, the

employee replied, "We have personal beliefs that follow the natural laws God ordained." This employee received a religious exemption. However, after hearing that colleagues would be terminated, the employee resigned from the hospital.

At this point we started to voice our concerns and seek solutions. Through an internet search, one employee found Alan G. Phillips, J.D., Attorney and Counselor at Law in Asheville, N.C. He specializes in vaccine legislature and exemptions. Phillips responded with an excellent two-page exemption letter clarifying the employee's stated religious beliefs. He also included a very detailed seven-page legal analysis of Title VII of the Civil Rights Act of 1964. I personally did not have Mr. Phillips draft my appeal. My statement was short and to the point: "I strongly do not believe in the flu vaccine. I firmly believe my rights are being violated to coerce me to receive the flu vaccine."

All four lawyer-submitted appeals and my second appeal were denied as follows:

Your appeal in relation to your request for exemption from the annual flu vaccination for religious reasons was evaluated in light of the EEOC Guidelines regarding accommodations based upon religious beliefs. It is the conclusion of the flu vaccine exemption committee that your request did not satisfy those requirements. Therefore, your appeal for an exemption from the annual flu vaccination has been denied.

By this time, the five of us were becoming quite vocal about our dilemma to our colleagues and anyone who initiated the subject. We knew of other employees who filed for religious exemption, with statements almost the same as ours, who were exempted.

So as a group the five of us decided to request a face-to-face hearing with the flu board. Again, on Dec 12th we were denied:

The exemption committee has carefully considered all exemption requests. It is neither appropriate nor practical to expect that every colleague whose request is denied would have a personal meeting with the committee. The committee involvement in this process, as outlined by the official policy, is now complete.

### Final Alternative Appeals

After my last denial, it seemed that the flu board was paying special attention to me. One day I was entering near the office of the COS, where the COS was at his desk and the COO at the door. As I passed we made a nonverbal connection. Though we never met during the flu exemption process, they recognized me.

"So, there's no other option?" I asked.

"What?" asked the COO.

"So, there's no other option?"

The COO replied, "Yes, we all have choices; you have a choice."

I replied, "After 22 years, and this is my choice? No, thanks."

I proceeded on to duty.

Several days later as the Dec 15, 4:00 p.m., deadline for the vaccine neared, I again met the COO coming out of the administrative offices, smiling broadly and swinging his arms. He approached me and smiled.

"Are you going to take the flu vaccine now? Aren't you going to get the shot?"

I looked at him and replied, "I won't discuss this unless my personal representative is with me."

He backed off. "Okay, okay."

I proceeded down the hall, then turned and said, "I have my convictions and I'm going to stand by them."

"Okay, okay," he replied again.

The third and final encounter happened when I was in the intensive care unit saying "good-bye" to the intensivist. He began employment just a little after I was hired. I shared with him that I was to be fired for refusal of the flu vaccine.

"No Ethel! No Ethel, they can't fire you," the intensivist said.

"Oh, yes they can, and I'm sure they will."

"No Ethel, they can't, too many years, Ethel, all down the drain. No Ethel. Take half a dose, take half a dose."

I said, "No, I don't want any toxin in my body."

Just then the unit doors swung open and the COO entered. He offered me the nasal mist flu vaccine.

"No way," I said. "That has live virus in it. It carries increased side effects and risks."

"Yes, that's right," the COO agreed.

The intensivist, who had been holding my arm, took hold of the COO's arm, put us together and pointed toward the hall.

"You two, go talk, go talk," he begged.

So I had my impromptu face-to-face with the COO! We sparred the about the efficacy of the vaccine. I asked him whether there were studies to prove that healthcare workers infect patients. I pointed out that despite more institutions mandating flu vaccines, the news announced the "worst flu season yet." Could the vaccine actually be increasing the incidence of the flu?

I went on to share my faith as an Anabaptist. Historically, Anabaptists had to leave Europe for their religious convictions. The COO said, "I don't think we can bring religious persecution into this discussion."

"What do you mean?" I asked. "A conviction is a conviction. If one can't stand for one's conviction no matter what, that conviction is totally worthless." I added, "I haven't taken the flu vaccine 'religiously' for 21 years. Now, you tell me I believe in it and need to take it."

I reminded him that I had taken the flu vaccine once. I got sick and had to call off work. I challenged the flu board to verify my career sick time. To my knowledge they didn't research this, but I knew what it was. In my 22 years I was sick maybe 4 or 5 times, and once was because of the flu vaccine.

I asked him whether physicians had to comply with the same policy.

"Yes," he said.

I asked, "Have they all complied?"

"No, three haven't yet," he replied.

"So, are you going to fire them?"

"Yes, we will," he said.

Finally, I said, "Look, you are never going to forget this until the day you die, and neither will I."

I turned and walked away.

Later, I called the corporate lawyer and asked whether the three physicians had gotten the vaccine, were exempted, or were fired. He became quite angry, and refused to give me any verification.

I told him I would state his denial in this article.

He replied, "You go ahead. It's a free country. You can write what you want."

*Free?* I wanted to ask. *How about mandatory flu vaccines?*

## Final Physician Interactions

"Really? Really?" One physician said when he heard I was going to be fired. He stood and strummed his fingers on the counter gazing at something else. "Hmm, hmmm. Thanks for telling me. I'm glad I asked."

Later the flu board's infectious disease doctor was on the unit, and this physician approached him and asked, "Are you really going to fire employees if they don't take the flu vaccine?"

"Yes, we will. Don't know why people have such an attitude about the flu vaccine."

Later this physician asked me, "How is it going?"

"No change," I replied.

He said, "They are stubborn."

"I know; I interact with them."

My passion as a nurse in my time at Goshen Hospital was to be the best advocate for my patients. Sometimes it caused a rippling of the waters, but patients knew I was there for them. A couple of those ripples occurred with two of the physicians on the flu board. Perhaps they remembered a time when I stood with a patient and prevailed against the physician's initial stand, and held it against me.

After another physician found out I was to be fired, he wanted to know how many more were in that situation. I told him the ones I knew about. He said he would "see what could be done."

I thought, "Good luck, Doctor."

On my last work day he came on the unit to say good-bye. He handed me a card with a note of encouragement that really strengthened me.

When discussing my impending termination, one physician stated, "It will not be your loss. It definitely will be our loss."

## Emotional Reactions

I have been asked if I ever considered just taking the vaccine. As the final deadline crept up, I did entertain the thought. However, every time I would visualize the injection entering my body, all my deep emotions would rise up and revolt.

"No, I can't do that." It was my only choice. I couldn't take the inoculation and forfeit peace.

My immediate colleagues also struggled with deep emotions knowing I was to be terminated. We cried together, shared together, and encouraged each other. One stated, "Who knows what they'll mandate next! Probably that we can't pray with our patients."

Our acronym for fire emergency was RACE, (rescue, alarm, contain, evacuate). In the mid 1990s one colleague on our unit changed it to Run and Call Ethel. My colleagues said they would place my picture on the communications board so they could still Run and Call Ethel.

Numerous employees admitted having feelings of defeat in having to take the vaccine because they couldn't afford to lose their careers. One long-term employee finally relented and received the vaccine. After the inoculation she said, "I went to the chapel and cried like a baby."

Another employee only relented after a religious denial and also a subsequent appeal prepared by a lawyer. This employee stated in a Jan 9, 2013, article in *Goshen News*, "There's a lot of

emotion, hard conflicting emotions. It's a hard situation and hard to step forward." In a further statement the employee added, "I had to sign a waiver that I was voluntarily getting it. It was hard for me to sign because that was completely untrue. I am a victim of a mandated influenza vaccination. I was *flabbergasted* that the expectations of the flu board didn't respond favorably to the lawyer-assisted appeal."

## Final Days

Per IU flu vaccine policy and protocol, we became non-compliant at 4:00 p.m., Dec 15, if we had not gotten the vaccine. We had seven days of grace to comply by Dec 22. My last working day was Dec 21.

On Nov 7, IU mandated that RN's wear red tops, black bottoms, black stockings, and black shoes. I decided to wear all black for my last day. I traded my red jacket for a black sweater and had a black scarf tied around my head to symbolize mourning the ending of my career as a clinical RN. A photo of me, courtesy of my colleagues, later appeared on the Yahoo home page. This article received more than 20,000 comments.

We received our first certified letter by mail, stating if we didn't comply by Dec 22—three days before Christmas—we had three days suspension without pay. I was scheduled to work Christmas Day but was removed from the schedule.

On Dec 27 I received my second certified letter by mail stating my termination. As I was sitting looking at the termination letter the phone rang. It was the *Elkhart Truth* verifying my letter to the editor, which was submitted on Dec 19. They wanted to know if this really happened.

"Yes, in fact I am sitting here sadly looking at my termination letter, which was delivered by certified mail."

After the *Elkhart Truth* published the account on the front page on Dec 31, the local television stations, Channel 16 and Channel 22, spoke with me and my colleagues. That night on Dec 31 the news was aired locally. From there it went national—ABC, NBC, Fox and Friends, Yahoo, talk shows, and more. We were told that the news went as far as Sri Lanka.

On Jan 7, at 6:30 a.m., my colleagues were on a talk show with Dr. Rohan Perera from New York.

"This isn't just medical or ethical, but a human rights issue," Dr. Perera concluded.

## Conclusion

Currently, the media is saturated with messages promoting influenza vaccine. To counter this, the public needs accurate, non-biased information about the efficacy of the flu vaccine and its side effects. People need to know that the virus mutates rapidly, and that by the time it's injected, the vaccine could be practically worthless.

As adult citizens of the United States of America we should have freedom of choice about what we consume or what is injected into our own bodies, and protection from violation of our religious beliefs and human rights.

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