1. **Religious Accommodation:**

There seems to be a trend where companies are granting religious accommodation requests more than medical accommodation requests when it comes to the Covid-19 vaccine. Regardless of whether you proceed with a medical accommodation request, my suggestion to you would be to ask for religious accommodation based on your situation and sincerely held beliefs.

Title VII of the Civil Rights Act prohibits religious discrimination in most employment situations, including yours. As a result, your employer must accommodate your religious beliefs unless doing so creates an undue burden on your employer. And, while the federal Civil Rights Act is more than sufficient to protect your interests here, both you and your employer should know that there are greater protections provided to employees residing in Montana within Montana’s Constitution (discussed below) and recently enacted law (discussed below as well).

* Points to make when discuss when whether your request creates an undue burden on your company:
  + You are working from your home 100% of the time.
  + You have worked with XXXX for XXXX YEARS with no disciplinary issues.
  + Assuming you can document a prior positive diagnosis of Covid-19, indicate that there is no medical evidence that you are more likely to have Covid-19 and transmit it than a person who is vaccinated. In fact, several recent studies by Washington University, Cleveland Clinic, and a massive study out of Israel have all consistently found natural immunity to be more robust and longer-lasting than vaccine-only immunity. Nicely explain that you should be treated the same as a vaccinated person because you are immune, and it is unreasonable to exclude your natural immunity.
    - If you have no prior positive Covid-19 diagnosis, indicate you are willing to wear a mask and undergo weekly testing, at your own cost, as an alternative to taking the vaccine, if you are ever required to travel for work again.
      * You can also make this offer even if you have natural immunity.
  + As a Montana resident you enjoy the benefits and protections of the state.
    - Montana Legislature passed HB 702, which prohibits discrimination based on vaccination status. Under state law, it is unlawful for an employer to withhold or refuse privileges or employment opportunities based on your vaccination status. (See HB 702, Section 1, subsections(1)(a).) An employer may not refuse employment to a Montana resident (you), bar a person from employment or privileges of employment based on your vaccination status. (Id. At subsection (1)(b).) Under current Montana law, only schools, day cares, licensed nursing homes, long term care facilities and assisted living facilities are exempted from HB 702.
    - Article II, Section 4 of the Montana Constitution addresses your right of individual dignity. The right provides that "[t]he dignity of the human being is inviolable (*impregnable; the right to a guaranty of immunity free from invasion*). Neither the state nor any other person, firm, corporation, or institution shall discriminate (See HB 702 MT LAWS 2021) against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin, or condition, or political or religious ***ideas***. Further, this section of the Montana Constitution has even recently received scholarly notice, that I find favorable to you, even though it has been in existence since 1972.
* Points to make when discussing your request:
  + You are a Christian man who attends XXXXXX Church in XXXXX, on a weekly basis.
  + You have moral and ethical beliefs as to what is right and wrong, which come from the Bible and form the basis of Christianity.
  + You have a sincerely held belief that taking the vaccine is a sin. (Focus on the vaccine, not the mandate).
  + Here are suggested arguments around why many Christians believe taking the vaccine is a sin. You might find some, all, or none of these to be relevant to your deeply held religious beliefs, and you should put these thoughts into your own words:
    - **My Deeply Held Religious Belief About My Body and My Conscience**
    - Because I am a believer in Jesus Christ, His Holy Spirit, God Himself, dwells within me. My Body is His Temple. (1 Corinthians 6)
    - Scripture makes it clear that God’s temples are places of great importance in the relationship between God and man. God dwells in the Temple, and there a man communes with Him. God speaks harshly of, and deals harshly with, those who defile his temple. (Jeremiah 7:1-15)
    - The Temple is defiled when it is used in ways that distract from its purpose, which deny the glory of God, which invite sin, that lower God from His place of dominance in the life of the believer, who reduce his trust in God’s plan and ultimate control over his life, or that by these means or others corrupt his relationship with God.
    - I must use my body to glorify God. I must do this to the best of my ability, employing my God-given reason and attempting at all times, in good faith and under varying circumstances, to do what pleases Him.
    - For the sake of relationship, God has shared with us His image and likeness. We look like Him in some respects, and we are like Him in others. He has given us many of His own attributes in small doses. Our innate sense of what is right, and our freedom to act upon it, are two of those attributes. They impose upon me a duty to act in accord with my conscience.
    - My conscience tells me I cannot take any of the available Covid vaccines. There are several reasons for this:
      * Abortion is a grave evil. I cannot participate in it or benefit from it, even remotely. Where there is any question about whether the covid vaccines have made use of fetal tissue, in their manufacture or even in their testing, I cannot morally involve myself. But it is unquestionable that all three available COVID-19 vaccines have been manufactured or tested using fetal cell lines from aborted human children.[[1]](#footnote-1)
      * Unlike other measures that can be reasonably taken to avoid illness, willingly receiving the vaccines into my body defiles God’s temple in the following ways:
        + The vaccines act at a genetic level that invades the province of God. Our genetic physiology is His design, extraordinarily complex as only He could make it, and understood only as He can understand it. Our understanding is shallow. I cannot morally participate in tinkering with a powerful and dangerous thing, within this temple, that we poorly understand.
        + The acceptance into my body of any of the available covid vaccines would place my trust in Man over my trust in God. This defiles His temple.
        + My duty to God is to reasonably preserve my health, not endanger it. There is evidence available, and worthy of consideration, that the vaccines are dangerous to my body.
        + My faith teaches me that my conscience must be informed. The vaccines have been quickly configured. Many fair and important questions remain unresolved. A sufficiently informed decision cannot yet be made. Taking the vaccine at this point is a morally careless act.
* You will also want to include this section:
  + Therefore, pursuant to DoD Instruction 1300.17, including its implementation of the federal Religious Freedom Restoration Act ("RFRA"), 42 U.S.C. Sec. 2000bb-1, I request an accommodation for my inability to be sinfully complicit in abortion by not requiring me to take any of these vaccines. I request that my accommodation request receive individualized consideration pursuant to DoDI 1300.17 Para. 3.2(d). By analogy, the Equal Employment Opportunity Commission has instructed that in the employment context, reasonable accommodations may include wearing a face mask, social distancing from coworkers or non-employees, working a modified shift, getting periodic COVID-19 tests, telework, or reassignment. *See*EEOC COVID-19 Vaccine Guidance, Sec. K.2., [https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws](about:blank).

1. **Medical Accommodation:**

Here is the question you will need to answer: “Do I have a medical condition that may be exacerbated by the vaccine?”

If your answer is no, you really don’t have a medical condition that would be exacerbated by the vaccine, then you would want to proceed with religious exemption request only.

The Americans with Disabilities Act and Section 504 of the Rehabilitation Act protect those with disabilities from discrimination. A “disability” is a medical condition that substantially limits a major life activity, such as sleeping, eating, walking, reading, attending college, or engaging in everyday activities.

If you do have a qualifying condition and want to proceed with this route, we can discuss this option further.

1. **Know Your Rights:**

We are beginning to see some patterns:

* Employers are sending letters that seem as if they are rejecting religious requests, but they are instead asking for more information. Remember to read all correspondence carefully.
* The actual definition of religion by the EEOC is broad. If your employer fights you on whether Christian church leadership has a position on vaccines or not, it is not relevant because your beliefs are sincerely held regardless of what church leadership says:
  + "[T]he Commission will define religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views. This standard was developed in United States v. Seeger, 380 U.S. 163 (1965) and Welsh v. United States, 398 U.S. 333 (1970). The Commission has consistently applied this standard in its decisions.  The fact that no religious group espouses such beliefs or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of the employee or prospective employee. The phrase “religious practice” as used in these Guidelines includes both religious observances and practices, as stated in section 701(j), 42 U.S.C. 2000e(j)." 29 CFR 1605.1
* Preserve your rights by asking for the religious accommodation, even if your employer tells you, it will be rejected.
* Don’t lose your cool. If you are fired for failure to exhibit professionalism, you may not be able to file a discrimination suit in the future.
* Unpaid leave of absence options are not reasonable accommodations, and I have seen this paperwork contain liability releases. Again, fine print.
* If your employer places you on unpaid leave of absence for remaining unvaccinated, thereby refusing your religious accommodation request, you can file a charge of discrimination with the EEOC and/or your state level human rights agency. **In Montana you have 180 days to file the request.** You can do this through a private attorney or on your own.

1. [https://lozierinstitute.org/update-covid-19-vaccine-candidates-and-abortion-derived-cell-lines/](about:blank) . [↑](#footnote-ref-1)