



Office of the Secretary
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ASA HUTCHINSON
Governor

NATHANIEL (NATE) TODD
Secretary

January 19, 2022

Hon. Terry Rice, Co-Chair
Hon. Jeff Wardlaw, Co-Chair
Arkansas Legislative Council
1 Capitol Mall, Fifth Floor
Little Rock, Arkansas 72201

Dear Senator Rice and Representative Wardlaw:

Pursuant to Act 977 of 2021, the Arkansas Department of Veterans Affairs (ADVA) requests approval from the Arkansas Legislative Council to establish a COVID-19 vaccine policy for ADVA employees working in healthcare facilities that are subject to the Centers for Medicare & Medicaid Services ("CMS") promulgated interim final rule ("IFR"). Act 977 of 2021 states as follows:

If a state-owned or state-controlled medical facility desires to mandate or require an individual to receive a vaccine or immunization for coronavirus 2019 (COVID-19), then the state-owned or state-controlled medical facility shall receive approval from the Legislative Council to mandate or require individual to receive a vaccine or immunization for coronavirus 2019 (COVID-19).

ADVA had submitted a similar request to the Council on November 17, but on November 30 ADVA withdrew that request due to the preliminary injunction entered by a federal district court enjoining enforcement of the IFR. On January 13 the U.S. Supreme Court stayed that preliminary injunction, allowing CMS to begin enforcement. Therefore, ADVA requests that the Arkansas Legislative Council grant permission under Act 977 for ADVA to comply with the IFR and any subsequent guidance from CMS.

This request is made only to keep ADVA in compliance with federal law and protect the federal funding that keeps our healthcare facilities open, as ADVA opposes the IFR in principle. In addition, I do concur with the comments submitted by DHS to CMS opposing the IFR.

Sincerely,

Nathaniel (Nate) Todd
Colonel (Ret), U.S. Army
Secretary, Arkansas Department of Veterans Affairs



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NATHANIEL (NATE) TODD
Secretary

November 30, 2021

Hon. Terry Rice, Co-Chair
Hon. Jeff Wardlaw, Co-Chair
Arkansas Legislative Council
1 Capitol Mall, Fifth Floor
Little Rock, Arkansas 72201

Dear Senator Rice and Representative Wardlaw:

On November 17 pursuant to Act 977 of 2021, the Department of Veterans Affairs requested approval from the Arkansas Legislative Council to establish a COVID-19 vaccine policy for ADVA employees working within the Arkansas State Veterans Homes. On November 29, in the case of *State of Missouri, et al v. Joseph R. Biden, Jr.*, Case No. 4:21-cv-01329, the United States District Court for the Eastern District of Missouri granted the State's request for a preliminary injunction enjoining the Centers for Medicare & Medicaid Services from enforcing a vaccine mandate.

Because the CMS mandate has been enjoined by a federal court, ADVA withdraws its November 17 request for approval to establish COVID-19 vaccine policy. If the injunction is dissolved or modified in the future, the agency will determine at that time whether it is necessary to resubmit the request.

Sincerely,

A handwritten signature in cursive script that reads "Nathaniel Todd".

Nate Todd, Colonel (Ret.), U.S. Army
Secretary