

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

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PAT PROCTOR

41ST DISTRICT
LEAVENWORTH AND FORT LEAVENWORTH

October 12, 2021

Re: Inquiry Concerning Mandatory Covid-19 Vaccinations for the Kansas National Guard

Dear Maj. Gen. Weishaar,

I was recently sent a warning order, "WARNO 1 to OPORD 22 03 COVID 19 Vaccinations," issued by your organization on September 24, 2021, which seems to indicate that you either have, or will soon begin, mandatory Covid-19 vaccinations of Kansas National Guard servicemembers. This warning order indicates that servicemembers refusing the vaccine might be subject to "adverse action flag, General Officer Memorandum of Reprimand (GOMOR), [or] administrative separation" and that, "on order, all remaining personnel unvaccinated without approved exemption requests [will be] separated from the KSARNG."

In my capacity as a member of the House Committee on Veterans and Military and on behalf of the two other Committee members whose names are included below, I request an answer to the following question: under what legal authority are you mandating Covid-19 vaccines for your servicemembers?

As you well know, when not activated for federal service under Title 10 of U.S. Code, the federal laws governing your organization are those contained in Title 32 of U.S. Code. While operating under Title 32 authorities, your organization is subject to the laws of the State of Kansas and is funded by appropriations set forth in those laws. In fact, as part of your oath of office, you swear to "support and defend ... the Constitution of the State of Kansas" and your enlisted servicemembers further swear to "obey the orders of ... the Governor of Kansas ... according to law and regulations."

In this last legislative session, the Kansas Legislature passed SB159, appropriating money for the operation of the various agencies of the Kansas state government, including yours. This bill, as enrolled into law, states, in section 60 (a), in part (emphasis added):

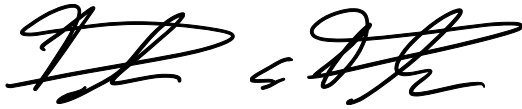
Notwithstanding any other provision of law, no state agency named in 2021 House Bill No. 2007, this or other appropriation act of the 2021 regular session of the legislature shall expend any moneys appropriated from the state general fund or from any special revenue fund or funds for each such state agency for fiscal year 2022 as authorized by 2021 House Bill No. 2007, this or other appropriation act of the 2021 regular session of

the legislature to: (1) Issue a COVID-19 vaccination passport to any individual without such individual's consent; (2) require an individual to use a COVID-19 vaccination passport within this state for any purpose

The provisions of this statute, as I understand them, bar you from issuing or requiring proof of Covid-19 vaccination from any of your servicemembers (unless they are activated by the federal government and become subject to the provisions of Title 10 of U.S. Code).

So, again, I ask, under what legal authority are you mandating Covid-19 vaccines for the servicemembers in the Kansas National Guard?

Thank you for your time and attention. And, of course, thank you for your lifetime of selfless service to our State and our nation. I look forward to your response to this inquiry.

A handwritten signature in black ink, appearing to read 'Pat Proctor', with a stylized flourish at the end.

Pat Proctor

Colonel, U.S. Army, Retired
Member, Committee on Veterans and Military
State Representative
House District 41

Co-signed:

Ronald Ellis

Vice Chair, Committee on Veterans and Military
State Representative
House District 47

Timothy Johnson

Member, Committee on Veterans and Military
State Representative
House District 38