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Congress of the United States  
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Washington, DC 20515-3309

COMMITTEE ON THE JUDICIARY  
ANTITRUST, COMMERCIAL AND ADMINISTRATIVE LAW  
COURTS, INTELLECTUAL PROPERTY, AND THE INTERNET  
COMMITTEE ON HOMELAND SECURITY  
BORDER SECURITY, FACILITATION, AND OPERATIONS  
OVERSIGHT, MANAGEMENT, AND ACCOUNTABILITY

January 20, 2022

Dr. Janet Woodcock  
Acting Commissioner  
United States Food and Drug Administration  
10903 New Hampshire Ave.  
Silver Spring, MD 20993-0002

Dear Commissioner Woodcock:

We write concerning the new U.S. Food and Drug Administration (FDA) guidance that has led medical professionals to allocate monoclonal antibody treatments by race. This is profoundly un-American and appears to be a square violation of the Fourteenth Amendment. We demand that you reject government-imposed racial discrimination in the distribution of COVID-19 therapies by immediately rescinding this guidance.

The FDA guidance, dated December 12, 2021, lists certain medical conditions and factors that elevate risk for severe COVID-19 illness. But the document goes beyond those legitimate criteria to direct providers explicitly to consider race and ethnicity in determining what treatments to give to patients. Notably absent is any citation to scientific support for rationing care based on race.

The *New York Post* reported a prescribing physician's astonished account of being asked by a pharmacist to disclose the race of two patients before administering treatment. "In my 30 years of being a physician," he stated, "I have never been asked that question when I have prescribed any treatment."<sup>1</sup>

We share his outrage. Unfortunately, some states and localities are implementing this discriminatory guidance. New York, Minnesota, and Utah are prioritizing race over high-risk medical conditions in furnishing these lifesaving treatments. Citing FDA's guidance, a memo published by New York's Department of Health identifies "Non-white race or Hispanic/Latino ethnicity" to be a "risk factor" for prioritizing treatment due to "longstanding systemic health and social inequities."<sup>2</sup>

<sup>1</sup> <https://nypost.com/2022/01/01/nyc-considering-race-in-distributing-life-saving-covid-treatment/>

<sup>2</sup> [https://coronavirus.health.ny.gov/system/files/documents/2021/12/prioritization\\_of\\_mabs\\_during\\_resource\\_shortages\\_20211223\\_1000\\_0.pdf](https://coronavirus.health.ny.gov/system/files/documents/2021/12/prioritization_of_mabs_during_resource_shortages_20211223_1000_0.pdf)

<sup>3</sup> <https://www.deseret.com/utah/2022/1/11/22878739/utah-reevaluating-covid-19-treatment-qualifications-tucker-carlson-claims-whites-excluded-fox-news>

COVID does not care about your politicized obsession with race, and the Constitution does not permit you to implement it in policy, especially when Americans' lives are at-risk by denying them medical treatments. No scientific data whatsoever suggests special susceptibility to severe COVID illness because of race. While studies have suggested a disproportionate incidence of COVID infection in Hispanic and African American communities, that does not mean that race is itself a causal factor or that race should be a basis for denying treatment.

The perverse impacts to flow from this egregious guidance are apparent. Utah's "point system" to determine treatment, which mimics China's social credit system, awards two points to patients solely for not being white, while only awarding one point to patients with congestive heart failure.<sup>3</sup> This is deeply wrong and will almost certainly result in avoidable deaths.

We demand that your agency move with alacrity to correct this guidance before it becomes a permanent stain on the history of the agency tasked with promoting the health of the American people.

Sincerely,



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Dan Bishop  
Member of Congress



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Ted Budd  
Member of Congress



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Elise Stefanik  
Member of Congress



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Chip Roy  
Member of Congress



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Jody Hice  
Member of Congress



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Andy Biggs  
Member of Congress



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Doug Lamborn  
Member of Congress



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Diana Harshbarger  
Member of Congress

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<sup>3</sup> <https://nypost.com/2022/01/01/nyc-considering-race-in-distributing-life-saving-covid-treatment/>

Madison Cawthorn

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Madison Cawthorn  
Member of Congress



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Mike Carey  
Member of Congress

Glenn Grothman

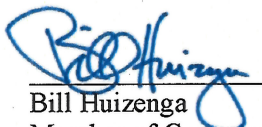
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Glenn Grothman  
Member of Congress



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Ralph Norman  
Member of Congress



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Bill Huizenga  
Member of Congress

Andrew S. Clyde

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Andrew Clyde  
Member of Congress



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Clay Higgins  
Member of Congress



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Beth Van Duyne  
Member of Congress

Mary E. Miller

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Mary Miller  
Member of Congress



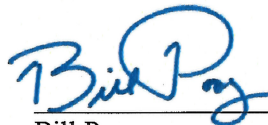
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Nancy Mace  
Member of Congress



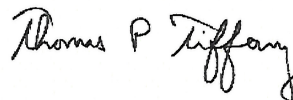
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Rodney Davis  
Member of Congress



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Bill Posey  
Member of Congress



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Tom Tiffany  
Member of Congress



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Lauren Boebert  
Member of Congress



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Claudia Tenney  
Member of Congress



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Scott Perry  
Member of Congress

*Mo Brooks*

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Mo Brooks  
Member of Congress

*Matt M. Rosendale*

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Matt Rosendale  
Member of Congress

*Paul A. Gosar*

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Paul A. Gosar, D.D.S  
Member of Congress

*Stephanie L. Bice*

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Stephanie Bice  
Member of Congress

*David B. McKinley*

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David B. McKinley, P.E.  
Member of Congress

*Jeff Duncan*

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Jeff Duncan  
Member of Congress

*Byron Donalds*

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Byron Donalds  
Member of Congress