

Home Care Developments

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Religious Exemptions to DOH Vaccinate Mandate, Continued

Utica-based federal district court Judge Hurd has ruled in favor of plaintiffs, a non-profit group and individual healthcare workers that had sued the State, challenging the Department of Health's vaccination mandate regulation insofar as the regulation prohibits covered healthcare providers from considering religious exemption requests from their employees. In relevant part, the Court's ruling states:

"The question presented by this case is not whether plaintiffs and other individuals are entitled to a religious exemption from the State's workplace vaccination requirement. Instead, the question is whether the State's summary imposition of § 2.61 [the DOH's vaccination mandate regulation] conflicts with plaintiffs' and other individuals' federally protected right to seek a religious accommodation from their individual employers...

Therefore, it is ORDERED that...

2. Plaintiffs' motion for a preliminary injunction is GRANTED;

3. Defendants, their officers, agents, employees, attorneys and successors in office, and all other persons in active concert or participation with them, are preliminarily ENJOINED from enforcing, threatening to enforce, attempting to enforce, or otherwise requiring compliance with § 2.61 such that:

(a) Section 2.61 is suspended in operation to the extent that the Department of Health is barred from enforcing any requirement that employers deny religious exemptions from COVID-19 vaccination or that they revoke any exemptions employers already granted before § 2.61 issued;

(b) The Department of Health is barred from interfering in any way with the granting of religious exemptions from COVID-19 vaccination going forward, or with the operation of exemptions already granted; and

(c) The Department of Health is barred from taking any action, disciplinary or otherwise, against the licensure, certification, residency, admitting privileges or other professional status or qualification of any of the plaintiffs on account of their seeking or having obtained a religious exemption from mandatory COVID-19 vaccination."

Judge Hurd acknowledged that his decision is ripe for an appeal and, based on Governor Hochul's actions over the last several days, the State is likely to file an appeal of this decision to the Second Circuit Court of Appeals. In the meantime, for employers that have not yet made a decision on any religious exemption requests, the court's decision today supports those

employers proceeding to either grant or deny religious exemption requests from employees.

For employers that have granted religious exemptions to employees who have demonstrated that their sincerely held religious beliefs prevent them from complying with the Department's vaccination mandate, those exemptions can continue to stay in effect. Indeed, to the extent that the Second Circuit rules in favor of the healthcare workers who have brought these legal challenges, then any religious exemptions that have been granted will become permanent for those employees. But to the extent that the Second Circuit agrees with the Department of Health, then any religious exemptions that have been granted thus far will, effectively, be void. Employers that have significantly relied on the religious exemption to continue providing home care services should consider the impact of such a decision on their operations because they could be effectively stripped of a large portion of their workforce overnight, depending on how the decision is written.

If you have any questions about the vaccination mandate or the topic of this alert, please don't hesitate to reach out.



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