



Attention PEF Members!

As you know, on October 6, 2021, NYS mandated that employees who are employed or affiliated with OMH hospitals (excluding Nathan S. Kline Institute) be vaccinated with at least one vaccine dose against COVID-19 by November 1, 2021, and be fully vaccinated by December 10, 2021, without any option to opt-out and be subject to testing instead. PEF encourages all members who can do so to get the vaccine, as it is one of the best ways to protect ourselves, and the communities we live in and care for every day.

Please note that PEF did not agree to the State's vaccine mandate. This mandate was unilaterally implemented by the State. Last week, PEF filed an application with the Public Employment Relations Board (PERB) seeking permission to petition the Albany County Supreme Court for an injunction to halt the implementation of the vaccine mandate due to the State's failure to negotiate over the impact of the mandate on the terms and conditions of employment for our members. Today we received a decision from the New York State Public Employment Relations Board denying our request to proceed to court to request that the OMH vaccine mandate be enjoined. This means we will not receive any preliminary injunction to halt OMH's vaccine mandate.

Significantly, PERB's Office of Counsel concluded that OMH's vaccine mandate is appropriate given hospitals' core mission and duty to protect patient safety. Counsel further noted that even if the risk "may be small . . . the potential consequences are potentially catastrophic" and, accordingly, OMH's need to act appears to outweigh the impact on the mandate on PEF's members' terms and conditions of employment.

This means that members employed in covered OMH facilities must be vaccinated or they will be in violation of OMH's rule unless they been granted an exemption or accommodation. OMH has notified members that employees who are not vaccinated on or before November 1, 2021 will be suspended and issued notices of discipline seeking termination and, we expect that OMH will follow through on this threat.

While PEF has filed an improper practice charge with PERB challenging the vaccine mandate, we expect that it will take a number of months before that charge is resolved and we cannot make any guarantees as to whether we will prevail on that case and expect it could be tied up in appeals to the PERB Board and the courts for more months.

If we do prevail, we would seek to have members "made whole" by PERB, which typically means that affected members could be reinstated with back pay and benefits. If we do not prevail on the improper practice charge, any actions taken for violation of the vaccine mandate would stand, including disciplinary suspensions and terminations.

Are the vaccines safe and effective?

As of October 29, 2021, over 422 million doses of the COVID-19 vaccine have been administered in the United States. The vaccines are not experimental, and in fact were developed using science that has been around for decades. The FDA requires vigorous testing and evaluation before approving the vaccines for Emergency Use Authorization (EUA) and ultimately for full approval, as the Pfizer vaccine recently received. The FDA analyzed effectiveness data from approximately 20,000 vaccine and 20,000 placebo recipients ages 16 and older before giving full approval to Pfizer. The FDA and Centers for Disease Control and Prevention have monitoring systems in place to ensure that any safety concerns continue to be identified and evaluated in a timely manner.

COVID-19 vaccines teach our immune systems how to recognize and fight the virus that causes COVID-19. It has been proven that COVID-19 vaccines are safe and effective and that any risks of the COVID-19 vaccine outweigh the potential risks of becoming infected with COVID-19. The COVID-19 vaccines have undergone the most intense safety monitoring in U.S. history.

It is important to use reliable science-based information to stop the misinformation, myths and rumors about the vaccines. They will not cause infertility, alter your DNA, cause you to get COVID, or make you magnetic. But they will provide you with the best protection against COVID-19.

If vaccinated people can still get infected and spread the disease, why get vaccinated?

No vaccine is 100% effective and breakthrough cases occur for all vaccine preventable diseases. Getting vaccinated is still the best way to prevent being infected with COVID-19, including the Delta variant. Although those who are vaccinated can still become infected, it is not as common. The COVID-19 vaccines greatly reduce the risk of serious illness, hospitalization and death for those who experience breakthrough infections. Recent data indicates that the vast majority of hospitalizations and COVID-19 deaths occur in those who are unvaccinated or not fully vaccinated.

Those who are vaccinated should keep in mind that they can still spread the virus, the risk of which may be increased with the Delta variant; this will especially impact those who are not vaccinated and those at high risk, including many of those in the most vulnerable populations and under medical care.

What if I am medically unable to receive the vaccine?

If your medical provider advises that it is unsafe for you to obtain the vaccine, you must promptly apply for a reasonable accommodation (RA). Please speak to your supervisor or personnel office immediately. Be sure to document everything and abide by any timelines provided. You must include medical documentation from your provider to support the RA application. You must cooperate in the interactive RA process. If your RA is rejected, please contact your local PEF office for guidance and resources on your appeal rights.

What if I have a religious objection to receiving the vaccine?

Please speak to your supervisor or personnel office immediately for guidance and assistance. If you feel that you have been wrongly denied, please contact your local PEF office for guidance and resources on your appeal rights.

What will happen to my employment if I refuse?

You have the right to consult with your union representative prior to answering questions about your vaccine status; however, please understand that according to the EEOC, employers may lawfully direct you to disclose your vaccine status and provide proof of vaccination. We have been advised that commencing beginning of business November 2, 2021, if you have not received the first dose of your vaccine or have an approved accommodation, you will be suspended without pay pending termination. If you are advised you are facing discipline due to failure to receive the vaccine, please contact your local PEF office immediately.

What if I choose to resign in lieu of facing discipline or termination?

You have the right to voluntarily resign your employment at any time. However, you should contact the NYS Retirement System with any questions about vesting and your pension. Consult with your personnel office for impact on health insurance and other benefits. Questions regarding unemployment eligibility should be directed to the NYS Department of Labor.

Questions? Contact Your Local PEF Office:

Region 1/Buffalo: 716-853-3109

Region 2/Hornell: 607-324-6060

Region 3/Rochester: 585-232-6980

Region 4/Syracuse: 315-471-2311

Region 5/Binghamton: 607-785-1699

Region 6/Utica: 315-768-0123

Region 7/Potsdam: 315-261-4464

Region 8/Albany: 518-785-1900 x228

Region 9/Poughkeepsie: 845-473-5022

Region 10 & 11/NYC: 212-227-3132

Region 12/Long Island: 631-360-4360