

Will There Be Any Health Care Workers Left?

Liberty Counsel has filed the reply in support of a preliminary injunction on behalf of more than 2,000 health care workers against Gov. Janet Mills, health officials of the Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention and five of Maine's largest hospital systems.

Gov. Janet Mills' executive order purports to override both Title VII employment law and the First Amendment Free Exercise clause. Her discriminatory order mandates the shots and states health care workers cannot raise religious exemptions claims. The hearing is set for Monday, Sept. 20, in the U.S. District Court.

On Aug. 12, 2021, Gov. Mills announced that Maine will require health care workers to accept or receive one of the three currently available COVID-19 shots to remain employed in the health care profession. This edict would force numerous doctors, nurses, medical professionals and other health care workers to choose between the exercise of their sincerely held religious beliefs and their employment. Gov. Mills and state officials explicitly and illegally claim that federal law does not apply to health care workers in Maine and that no protections or considerations will be given to their religious beliefs. The governor originally stated they must receive a COVID-19 injection by Oct. 1 and has now extended the deadline for compliance to Oct. 29.

Gov. Mills has threatened to revoke the licenses of all health care employers who fail to mandate that all employees receive the COVID-19 injection, despite the unconstitutional fact that she is discriminating against religious employees who decline vaccination while favoring those who decline for secular,

medical reasons.

For example, there is discriminatory treatment between federal employees and other health care workers in Maine. The Department of Veterans Affairs at the VA Maine Healthcare System in Augusta “permits and freely grants exemptions and accommodations to healthcare employees with sincerely held religious objections to mandatory vaccinations.” Employees are merely required to check a box requesting a religious exemption and are granted accommodation.

On the other hand, one health care worker is employed at the federal VA facility and was given a religious accommodation. However, this same employee was also a per diem employee at Eastport Memorial Nursing Home, where she requested a religious accommodation and was denied and discriminatorily fired. Ironically, these two facilities are located nine miles apart. Therefore, according to Maine’s governor, somewhere along that route the law seems to disappear.

Accommodations for patient-facing health care workers with sincerely held religious objections to the shots cannot mean one thing in most states and not in the vast majority of Maine. This is evident with employers granting accommodations to health care employees in Oregon, California, Washington, New Mexico, Missouri, Texas, Wisconsin, Minnesota, Illinois, Colorado, Michigan, Ohio, Pennsylvania, Delaware, Maryland and Florida. These health care providers include top education and research hospitals such as University of Colorado, University of Chicago, University of Maryland, Temple University; some of the largest health care providers in the nation including Kaiser Permanente, Trinity Health and Advocate Aurora Healthcare with hundreds of thousands of employees providing patient-facing care and accommodating the subset of those with sincere religious beliefs; and mid-size and smaller health care providers that have also readily accommodated patient-facing personnel with sincere religious beliefs.

In addition, Title VII of the Civil Rights Act clearly requires that every employer with over 15 employees must provide religious accommodations “unless an employer demonstrates that he is unable to reasonably accommodate an employee’s or prospective employee’s religious observance or practice without undue hardship.” For months, health care employees have worked every day with reasonable accommodations and history underscores that the state and the employers can continue to provide accommodations.

On September 14, the Northern District Court of New York granted a temporary restraining order for all health care workers against the state’s unconstitutional attempt to ignore federal law and remove religious exemptions and accommodations from unlawful COVID shot mandates for health care workers. Governor Mills’ mandate is identical to New York’s in its removal of religious accommodations, and its fate should be the same.

Liberty Counsel Founder and Chairman Mat Staver said, “Gov. Mills is clearly discriminating against health care workers with sincerely held religious beliefs. She cannot override federal law and dictate that they must inject an experimental substance into their bodies. The Constitution does not disappear across state lines. All Maine health care workers have the legal right to request reasonable accommodation for their sincerely held religious beliefs and forcing COVID shots without exemptions is unlawful.” {eo}

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