Health Care Providers Fire Employees Who Refuse Flu Shots, Face Lawsuits

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The article, “Health Care Providers Fire Employees Who Refuse Flu Shots, Face Lawsuits,” featured in *PennRecord*, highlighted two separate cases in which an employee asserted that their employer violated their constitutional right to religious freedom.

Kevin Troutman weighed in on the Mercy Fitzgerald Hospital and Baystate Medical Center cases.

“What sets these cases apart is the defendants' need to protect its patients. The need to protect the health of patients and employees in a hospital is overwhelming,” Kevin said.

Exposing them to a flu virus would do them harm, but they [hospital management] cannot run roughshod over employees' religious beliefs in instituting policies to protect their health and safety. Hospital administrators need to find effective, mutually agreeable solutions. That's not a simple or easy task.

EEOC is challenging Baystate's decision on both medical and legal grounds, Kevin pointed out. It is questioning whether Baystate's policy of requiring employees who refuse to receive a flu shot to wear a face mask is effective in preventing the spread of the flu virus, as well as asserting that the hospital violated their client's religious rights by firing her.

¨If they were able to prove that wearing a face mask isn't an effective alternative to receiving a flu shot, Plaintiffs could argue that Baystate wasn't serious about offering a legitimate alternative and were engaged in religious discrimination,” Kevin said.

Faced with the need to respect and accommodate employees' sincerely held religious beliefs while simultaneously adhering to organizational policies and legal obligations leaves employers between something of a rock and a hard place, Kevin said.

¨The lesson to take away from both these situations is that organizations cannot afford to make quick decisions,” Kevin said.

¨Employers need to take religious rights issues seriously," he added. "While protecting employees' religious rights, they have to find a way of balancing them with other compelling interests - in the case of hospitals, the health and safety of patients and co-workers. It's a fine line to walk.¨

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Hospital administrators need to consider such situations from each and every possible perspective and proceed prudently before taking action, he added. That includes asking what the implications would be were they to accede to an employee's request for exceptional treatment, Kevin concluded.

To read the full article, please visit *PennRecord*.

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