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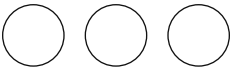
Judge postpones vaccine mandate for court workers

CSEA filed petition seeking restraining order; hearing set for Oct. 1



Brendan J. Lyons

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Gov. Kathy Hochul wants to increase a proposed environmental bond act from \$3 billion to \$4 billion. It would go to voters next year.

Times Union file photo

ALBANY — A judge on Friday postponed the effective date of a vaccination mandate imposed earlier this month by the state Office of Court Administration that was challenged by the Civil Service Employees Association, the state's largest public workers union.

In a decision issued Friday by state Supreme Court Justice Christina Ryba, the state's Unified Court System is "enjoined and restrained from

Ryba's seven-page order states there is "reasonable cause to believe that (the state's) unilateral imposition of the mandatory vaccination requirement is an improper practice that violates Civil Service Law" and "potentially implicates a variety of terms and conditions of employment requiring mandatory negotiation, including but not necessarily limited to possible discipline and termination for noncompliance."

The decision is one of least two temporary restraining orders that Ryba handed down Friday — a second decision, in a case filed by a state assemblyman and five medical professionals in Buffalo, temporarily blocks the state from prohibiting religious exemptions to the mandate. The second case also is set to be argued in court on Oct. 1.

The challenges come as the first phase of a vaccination mandate for many state employees, mostly nurses, physicians and other front-facing medical workers, is set to go into effect beginning Monday. It has left thousands of health care workers to prove they have been vaccinated or face suspension and possible termination from their jobs.

New York's Chief Judge Janet DiFiore and chief Administrative Judge Lawrence Marks imposed the vaccination mandate of employees of the Office of Court Administration after the Pfizer-BioTech COVID-19 received full approval from the U.S. Food and Drug Administration on Aug. 23.

On Friday morning, Ryba heard oral arguments in another challenge to the mandate brought by plaintiffs identified as the Coalition of Citizens for Medical Choice, whose attorney argued that the state's action was both

Groups of medical professionals and multiple labor unions have challenged the imposition of the vaccination mandates — through negotiations, filings with the Public Employment Relations Board and court cases that invoke what they allege are violations of the Constitution and labor laws.

Gov. Kathy Hochul has embraced the directive, issued in July by former Gov. Andrew M. Cuomo, and on Thursday said her administration would soon announce "a whole series of initiatives to be prepared for a situation on Monday that I hope doesn't happen."

On Wednesday, Hochul said that separate agreements with CSEA and PEF would allow nurses and other health care professionals at state-run hospitals to be eligible to work overtime at 2.5 times the normal rate of salary, up from 1.5 times. But that incentive, which would be retroactive to Sept. 16 and last through the end of the year, was not tied to the vaccine mandate: People familiar with the negotiations also said that while Hochul took credit for the agreement, it had been negotiated and already offered to the unions previously by SUNY Chancellor Jim Malatras, a former top confidant of Cuomo's.

In the case filed by CSEA on behalf of 5,600 court administration employees, an attorney for the state argued Thursday that the court officials had worked with union leaders to implement the mandate, including arranging for

The health department's mandate affects both public and private health care facilities. Thousands of nurses and other medical professionals have declined to be vaccinated; Hochul on Thursday said that nearly 15 percent of the state's health care workers were not vaccinated.

Officials with hospitals and group homes that care for the disabled said a staffing crisis that existed before the coronavirus pandemic will be exacerbated if many of those workers are off the job next week.

Many hospitals are already reducing or eliminating elective surgeries, and some are diverting patients to other hospitals to deal with the staffing issues.

them have been vaccinated.

Health care industry officials, including many private hospitals, are separately making plans for a potential staffing crisis.

Hochul's administration this week was locked in negotiations with multiple state labor unions, whose leaders have said the state's mandate should have been subject to collective bargaining and not simply imposed under a provision of state health law.

Frederick E. Kowal, president of the union United University Professions (UUP), which represents nearly 13,000 employees who work at SUNY hospitals and their related medical facilities, this week told his members in a videotaped announcement that the union leadership "unequivocally supports getting vaccinated against COVID-19."

agreement with HOCNUI'S administration that will enable members who are suspended to use accrued time off during that period and also keep their health benefits. At the end of the two-week suspension, anyone who remains unvaccinated will face termination but be entitled to "due process" in an arbitration proceeding.

"That's always been one of our prime concerns: those who either have a situation where (their health condition) is in remission or those who may have just been diagnosed with a new illness of any type. ... And there's a little bit of uncertainty about whether the present is the best time to be vaccinated," he said.



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