

Judge Holds that a Hospital can Fire Employees Who Refuse the Vaccine

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Sending a clear message to employers and employees alike on the prickly subject of mandatory vaccination programs, Texas federal Judge Lynn N. Hughes just dismissed outright a lawsuit brought by 117 employees of a Houston hospital, challenging their terminations for refusal to be vaccinated. The court rejected the employees' wrongful termination claims under Texas state law as well as their arguments that the Hospital's policy violated federal law.

It's also not just the result, but the strong language of the decision, which should give employers comfort that a mandatory vaccination program is lawful.

Background

On April 1, 2021, the Houston Methodist Hospital announced a policy requiring all employees be vaccinated against COVID-19 at the Hospital's expense by June 7, 2021. As that date approached, Plaintiff Jennifer Bridges and 116 other Hospital employees who had refused that vaccine, filed suit in the Southern District of Texas to block the Hospital's vaccination requirement and their terminations, arguing that the Hospital's mandatory vaccination program was unlawful.

Plaintiffs argued that the vaccination program constituted wrongful termination under Texas law and that the injection requirement also violated public policy. The Court rejected these arguments because the Plaintiffs did not establish the essential elements of the wrongful termination claim and because Texas does not recognize a public policy exception to an at-will employment relationship. Among the more absurd arguments advanced by the plaintiffs were that under the Hospital employees were being treated as participants in a human trial in violation of the Nuremburg Code.

Although the decision did not directly address whether the Hospital policy allowed for exemptions for employees who could not take a vaccine for medical or religious reasons. The Court's decision noted the EEOC's guidance allowing employers to institute mandatory vaccination programs subject to the legal requirement to provide appropriate accommodations, in a nod to "the position one is likely to meet at the Commission."

The Result

In a brief dismissal order, Judge Hughes dismissed the action noting that not only was the comparison to Nuremburg was "reprehensible," but also stating succinctly that the Hospital's program was also not "coercion." Judge Hughes highlighted that the Hospital's choice was made to keep staff, patients, and their families safe and noted (correctly) that "Bridges can freely choose to accept or refuse a COVID-19 vaccine; however, if she refuses, she will simply need to work

somewhere else.”

The Houston Methodist Hospital decision is the first ruling on mandatory vaccination programs, but we can certainly expect to see similar fact patterns play out in jurisdictions across the country. As we [previously discussed](#), mandatory vaccination programs are lawful subject to an employer’s duty to consider accommodation requests. And while, this case exemplifies the potential downside to instituting such a mandatory vaccine program, employers are still within their right to do so. If you have any questions about your mandatory vaccination program or employee accommodations, be sure to reach out to your Kelley Drye contact for guidance.