

BULLETIN

Arbitrator rules flu vaccine policy allowable; members who don't comply face risk of firing

October 24, 2013

health care workers who don't get a flu shot, or wear masks at work, face risk of being fired

An arbitrator has ruled on the controversial flu shot policy for health care workers, siding with the health authority policy that dictates all health care workers must get immunized against seasonal influenza, or wear a mask at all times during the declared flu season. Flu season is typically declared from late-November to March by the Provincial Health Officer.

The arbitrator also found the policy extends to anyone who enters a hospital, including visitors, doctors, volunteers and outside contractors. Non-compliance can result in the removal of hospital privileges for doctors, and the termination of contracts.

"We are of course disappointed in the arbitrator's ruling," said Val Avery, President of Health Sciences Association, the union that challenged the policy on behalf of 16,000 health science professionals.

"Our members believed they had a right to make personal health care decisions, but this policy says that's not the case. Flu shots are now mandatory for all health care workers, and if they fail to disclose whether they have been immunized, they must wear a mask at all times throughout flu season," Avery said.

But Avery said the decision does address some privacy concerns the union had with the policy. The arbitrator determined "it was an abuse of the privacy rights of health care workers" for immunization status reports of employees to be circulated at the workplace, as was done in 2012. In addition, the original policy required health care workers to report if other workers were not complying with the policy, which could create an unnecessary atmosphere of suspicion and accusation in the workplace. That requirement is removed.

"We will be telling our members to comply with the new policy, or risk being fired," she said.

"Compliance means getting immunized, or, alternatively, if an individual chooses not to be immunized, to wear a mask at all times at work during flu season," she said. The ruling emphasizes that employers are legally obligated to accommodate health care workers who cannot comply with the policy.

Avery said the union will continue to encourage health science professionals to take advantage of on-site flu shot clinics, and expects health authorities to have an adequate supply of masks available for use during flu season.

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