

# LABOR AND EMPLOYMENT LAW

## INFORMATION MEMO

FEBRUARY 28, 2023

### Appellate Division Stays Invalidation of Healthcare Vaccine Mandate

As covered in our [previous blog post](#), in January 2023, Onondaga County Supreme Court Justice, Hon. Gerard J. Neri, struck down a regulation adopted by the New York State Department of Health (NYSDOH) – 10 N.Y.C.R.R. § 2.61 (the Regulation) – requiring covered healthcare entities to ensure that their “personnel” are “fully vaccinated” against COVID-19. The NYSDOH, the Commissioner of Health, Governor Hochul (collectively, Respondents) filed a Notice of Appeal, indicating their intention to appeal Judge Neri’s decision in its entirety. Shortly thereafter, on Jan. 27, 2023, Respondents [moved for a stay of enforcement](#) of Judge Neri’s Order during the pendency of their appeal.

On Feb. 28, 2023, after several weeks of uncertainty regarding the legal footing of the Regulation, the Fourth Department granted Respondents’ motion for a stay on the condition that the appeal is perfected on or before March 20, 2023. As a result of the Fourth Department’s decision to stay enforcement of Judge Neri’s decision, and assuming the appeal is timely perfected, the Regulation and its requirement that personnel of covered healthcare providers be fully vaccinated against COVID-19 will remain in effect as the issues are heard on appeal.

If you have any questions about the information contained in this memo, please contact [Adam Mastroleo](#), [Hannah Redmond](#) or the Bond attorney with whom you are regularly in contact.



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