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Territorial Hospital Board Asks Judge to Throw Out Case Seeking to Block Vaccine Mandate

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Juan F. Luis Hospital nurses, joined by community members, protested the mandatory vaccine policy on Tuesday, Aug. 10, 2021. By. VI CONSORTIUM

The Territorial Hospital Board has asked the V.I Superior Court to throw out a lawsuit brought by the collective bargaining unit of the V.I. State Nurses Association (VISNA), calling for the court to block the mandatory vaccine policy established earlier this month.

In [the motion to dismiss](#), the Virgin Islands Government Health and Hospital Facilities Corporation (the Territorial Hospital Board), stated, "The Plaintiffs improperly seek to enjoin their employer, [the hospitals], from taking actions deemed necessary in light of the ongoing Covid-19 emergency at the hospital facilities in the Virgin Islands.

"Additionally, applicable law would deprive the Court of jurisdiction to grant this request for injunctive relief, as this controversy arises of a labor dispute and the facts as alleged, preclude said relief. Nor does the Court have jurisdiction to grant a temporary restraining order in this instance."

The Territorial Board argues 21 points relative to why the decision to mandate Covid-19 vaccination for hospital staff was important. Also part of the board's argument is the opportunity in the mandatory vaccine policy for hospital staff to seek exemption on the grounds of religious or health reasons.

Relative to the collective bargaining agreement between the employees and employer, point 20 of the board's argument reads, "Virgin Islands law provides that no contract or agreement with a public employer is valid if it interferes with the right of the public employer to execute public policy 'by taking such actions as may be necessary to carry out the mission of the public employer in times of emergency.'"

The motion for TRO from the collective bargaining unit of VISNA, [which was filed on August 13](#), followed multiple protests from nurses in both districts that called for the board and hospitals to abandon the policy and instead give nurses a choice to get tested weekly. None of the hospitals have budged on their stance, and Governor Albert Bryan has said he supports the mandates.

The mandatory vaccine policy was established by the Territorial Hospital Board on August 6, and it calls for medical staff to be vaccinated against Covid-19 by Sept. 24 or face termination.

A portion of the vaccine policy document reads, "Colleagues who are not able to get vaccinated for strongly held religious beliefs or disability will be required to apply for an exemption. The request will then be evaluated by the hospitals' Human Resources arms. Those who desire exemption must apply by August 19."

Additionally, those who receive exemption will be required to test regularly on a schedule set by hospitals' leadership, though it will be no less than once a week.

"We know you may still have questions about the vaccine. Your hospital leadership will be holding educational sessions in the coming days to listen [to] and answer your questions," reads the territorial board document, even as it had already issued the mandate.

The board had estimated that approximately 55 percent of JFL and Schneider Regional Medical Center staff had received at least one dose of a Covid-19 vaccine.

In the TRO, the union said it is seeking relief because the mandate violates due process and other covenants established in the collective bargaining agreement.

"This is an action for a Temporary Restraining Order, Preliminary Injunction, Permanent Injunction, Violation of Policies and Procedures, and Breach of the Collective Bargaining Agreement (CBA) based on Defendants' actions resulting in violations as it pertains to due process violations, possible wrongful termination of nurses covered by the parties' collective bargaining agreement, failure to negotiate terms and conditions of employment prior to implementation and the establishment of new rules, policies and procedures all in violation of the parties collective bargaining agreement," reads the motion, filed by Melisia Hanley in her capacity as chair on behalf of the V.I. Nurses' Association Collective Bargaining Unit.

The motion further stated, "The vaccine mandate is a violation of the CBA and interferes with and prevents Employees from exercising their rights under the CBA. Employees stand to lose their

jobs at the only two hospitals in the territory, wages, benefits and the bargained for consideration under the parties CBA."

It also stated, "A loss of over half of the Hospitals' nursing staff puts the entire health care delivery system in the Virgin Islands at risk of destabilization. VISNA is simply asking that the Hospitals abide by the CBA and meet with its members to address the Covid-19 issues including policies and procedures to reduce and prevent Covid-19 infection in the Hospitals. The hardline approach of the Vaccine Mandate is unnecessary when there are other possible measures readily available to address the issues concerning Covid infection. Plaintiff and its member Employees will suffer irreparable harm if the injunctive relief is not granted."