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Judy Aldan

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE COVID-19 VACCINATION OR TESTING REQUIREMENT AND OTHER
CONTAINMENT MEASURES FOR JUDICIARY EMPLOYEES

SUPREME COURT NO. 2022-ADM-0004-MSC

¶ 1 On November 2, 2021, the Judiciary issued Supreme Court No. 2021-ADM-0017-MSC, *In Re COVID-19 Vaccination or Testing Requirement and Other Containment Measures for Judiciary Employees*. Since then, the Commonwealth of the Northern Marina Islands (“CNMI”) has registered over 5,000 confirmed positive cases, while also achieving over 100 percent vaccination rate, and 56.8 percent for a booster dose, among those eligible.¹ This surge was fueled first by the Delta variant, and now, by the highly contagious Omicron variant.

¶ 2 Individuals infected with COVID-19 may have a wide range of symptoms, including mild to severe illness.² The Centers for Disease Control and Prevention (“CDC”) concluded that in 2020, COVID-19 was the third leading cause of death in the United States.³ The COVID-19 pandemic continues to be a public health emergency around the world, including the CNMI, and preventive measures must be undertaken to reduce transmission.

¶ 3 The CDC has recommended various preventive measures to protect people from contracting COVID-19, including vaccination, wearing masks, social distancing, avoiding crowded or poorly ventilated areas, washing of hands, covering when sneezing, cleaning and disinfecting, and monitoring health regularly. In particular, the CDC has recognized the importance of vaccination in reducing the spread of COVID-19:

¹ Commonwealth Healthcare Corporation, VAX Dashboard, <https://www.vaccinatecnmi.com/vax-dashboard/>, (last visited March 1, 2022).

² Centers for Disease Control and Prevention, Frequently Asked Question, <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#If-You-or-Someone-You-Know-is-Sick-or-Had-Contact-with-Someone-who-Has-COVID-19>, (last visited February 26, 2022).

³ Farida B. Ahmad et al., *Provisional Mortality Data—United States, 2020*, MMWR Morb Mortal Weekly Report 2021; 70:900, https://www.cdc.gov/mmwr/volumes/70/wr/mm7014e1.htm?s_cid=mm7014e1_w, (last visited February 26, 2022).

COVID-19 vaccines currently approved or authorized in the United States have been shown to provide considerable protection against severe disease and death caused by COVID-19. These findings, along with the early evidence for reduced levels of viral mRNA and culturable virus in vaccinated people who acquire SARS-CoV-2 infection, suggest that any associated transmission risk is substantially reduced in vaccinated people: even for Delta, evidence suggests fully vaccinated people who become infected are infectious for shorter periods of time than unvaccinated people infected with Delta.⁴

¶ 4

Due to the continuing cases of community transmission and the data supporting the effectiveness of COVID-19 vaccinations and other types of containment measures, the Judiciary finds it appropriate to amend its order mandating preventive measures. This Order also recognizes that since the issuance of Supreme Court No. 2021-ADM-0017-MSC, the Judiciary has achieved a 100 percent vaccination rate among its staff. Accordingly, under the Supreme Court's inherent and supervisory powers vested under Article IV, Section 3 of the NMI Constitution and 1 CMC § 3401(a), the Court hereby **ORDERS** the following:

I. VACCINATION AND TESTING REQUIREMENTS

1. Effective November 2, 2021, all employees of the Judicial Branch of the Northern Mariana Islands shall be required to receive one of the three U.S. Food & Drug Administration ("FDA") approved or authorized COVID-19 vaccinations or any other vaccine(s) later approved or authorized by the FDA. Employees shall be fully vaccinated with either a single shot of the Janssen or two shots of the Pfizer or Moderna series no later than **30 days from the first day of employment.**
2. Employee(s) means exempt or non-exempt, full-time or part-time employees and volunteers of the Judiciary, whether or not they are paid or unpaid.
3. Employees must provide proof of vaccination to the Human Resource Office/Administrative Officer on or before **30 days from the first day of employment.**
4. If an employee declines to receive a COVID-19 vaccination or provide proof of such vaccination, the employee will be required to undergo COVID-19 testing once weekly, starting on **the first day of employment.** The employee must submit a negative test result for each required weekly cycle before entering the workplace.
5. Workplace means any and all Judiciary owned, leased, or operated facility.
6. Employees who do not vaccinate or submit to weekly testing may be subject to corrective or disciplinary procedures in accordance with the applicable rules and regulations.

⁴ Centers for Disease Control and Prevention, Science Brief: COVID-19 Vaccines and Vaccination, <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html>, (last visited February 26, 2022).

7. Individuals with medical or other reasons seeking exemption from vaccination or testing must provide necessary documentation to the Human Resources/Administrative Officer no later than **30 days from the first day of employment**.
8. The Director of Courts and Human Resources/Administrative Officer shall coordinate with Commonwealth Healthcare Corporation (“CHCC”), the Governor’s COVID-19 Taskforce, or any other relevant agencies to ensure that Judiciary employees have adequate opportunities to receive a COVID-19 vaccine or access to weekly testing.
9. The Judiciary shall maintain employee records of vaccination status, declination forms, and/or testing results consistent with privacy laws and regulations.

II. CONFIRMED COVID-19 POSITIVE DIAGNOSIS, REPORTING PROCEDURE, AND CONFIDENTIALITY

Judiciary employees who have tested positive for COVID-19 shall not enter Judiciary facilities for five days after their first positive test result or after their first day of experiencing symptoms, or until they have completed the appropriate period of quarantine/self-isolation, as directed by CHCC, whichever is longer. Symptomatic employees may return to Judiciary facilities at the end of this period, if they have been fever-free for 24 hours without the use of fever-reducing medication and their symptoms are improving.

What does this mean in practice?

1. Confirmed Positive for COVID-19

Anyone who has been confirmed positive for COVID-19 should self-isolate. The employee must notify the Director of Courts and their supervisor as soon as possible and should not report to work.

2. To calculate the period of self-isolation, Day 0 is the employee’s first day of symptoms or a positive COVID-19 test, whichever is later. Day 1 is the first full day after symptoms develop or the test specimen was collected. If the employee develops symptoms during self-isolation, the 5-day isolation period must start over.
3. Anyone who tests positive for COVID-19 must notify the Director of Courts and their supervisor as soon as possible and should not report to work until they are clear to do so – which is until such time that they have received official clearance from CHCC or the COVID-19 Taskforce, or until such time they have received approval from the Judiciary.
4. Any employee who is at work and receives a positive COVID-19 diagnosis, must immediately leave work and remotely notify the Director of Courts and their supervisor.

5. Any and all information received by the Judiciary will be held confidential; however, information may be released internally or to the proper authorities for purposes of contact-tracing and preventing the spread of COVID-19.

III. NOTICE AND LEAVE

Employees must follow all COVID-19-related measures mandated by the Court, which include wearing face masks and practicing social distancing of no less than six feet, and the following provisions:

1. Supervisors are required to enforce and monitor their staff's compliance with the Court's orders, including this Order.
2. The Marshals Service Division shall enforce and monitor compliance at all Judiciary facilities and events.
3. Failure to comply with the Court's orders may result in corrective or disciplinary action in accordance with the NMI Judicial Branch Personnel Rules or any other applicable rules and regulations.
4. If an employee exhibits symptoms of COVID-19, they may be asked to go home and seek medical help.
5. If an employee cannot come to work because they are feeling sick, the Judiciary may ask whether they are experiencing COVID-19-like symptoms. All information will be held confidential.
6. In the event an employee tests positive for COVID-19, they will be required to quarantine and asked to identify all individuals at work who they had close contact with within the last 5 days. They will be required to provide clearance from CHCC via a Certificate of Completion of Quarantine/Isolation or have otherwise met CHCC's most recent criteria to discontinue home isolation or government quarantine.
7. Administrative leave may be granted to employees whose potential or actual exposure to COVID-19 is work-related. Approval of the administrative leave shall be determined in accordance with the NMI Judicial Branch Personnel Rules or any other applicable rules and regulations. If potential or actual COVID-19 exposure is not work-related, employees may use leave from accrued personal balances to date or be placed on leave without pay status during quarantine, unless they are able to telework.

8. If an employee is able to telework, they are encouraged to do so after consulting with their immediate supervisor and being granted approval. Individuals who telework shall abide by the terms of the Judiciary's Telework Policy and Agreement.

¶ 5 This Order supersedes Supreme Court No. 2021-ADM-0017-MSC, and may be revised as circumstances warrant and more information becomes available.

SO ORDERED this 7th day of March, 2022.

/s/
ALEXANDRO C. CASTRO
Chief Justice

/s/
JOHN A. MANGLONA
Associate Justice

/s/
PERRY B. INOS
Associate Justice