

ONA WINS



SUMMARY OF ANOTHER SUCCESS AS YOUR UNION STRIVES TO IMPROVE YOUR WORKING CONDITIONS

Arbitrator Sides with ONA in Landmark Influenza Vaccine-or-Mask Grievance

ONA has won a precedent-setting and far-reaching arbitration award for our members against Sault Area Hospital (SAH), striking down the controversial “Vaccinate-or-Mask” (VOM) policy introduced at many Ontario hospitals.

The VOM Policy

The contentious VOM policy forces nurses and other health care workers to wear an unfitted surgical mask for the entire flu season if they choose not to get the influenza vaccine. ONA’s position has always been that receiving the influenza vaccine needs to be a true choice and should be part of a more comprehensive, evidence-based infection control plan. Publicly “outing” nurses who choose not to receive immunizations with mandatory mask-wearing unfairly punishes them for a personal health decision.

“While our first priority as nurses and allied health professionals is always the safety of our patients, these coercive employer policies do not truly advance patient safety,” said ONA President Linda Haslam-Stroud. “Our collective agreement protects our patients if the medical officer of health determines there is an influenza outbreak by ensuring that comprehensive measures are put in place to reduce the risk of transmission to patients. The ‘Vaccinate-or-Mask’ policies have been highly criticized as symbolic rather than a scientifically-based tool in the fight against influenza.”

The Lead Case

As soon as these contentious VOM policies were put in place at many provincial hospitals, ONA sprung to action, launching several grievances on behalf of our members.

In the last round of hospital central bargaining, we negotiated a central arbitration process with the Ontario Hospital Association (OHA) to deal with the grievances challenging policies that mandated vaccination or masking at participating hospitals. It involved referral of these grievances to a single arbitrator, Jim Hayes. ONA and the OHA agreed that the grievance filed at SAH would be the lead case, proceeding first. The OHA recommended this binding process to all participating hospitals and many agreed to it.

During the course of the 18 days of hearings, ONA’s team of well-regarded expert witnesses argued that forcing healthy RNs to wear masks for up to six months during the influenza season did little or nothing to prevent transmission of the virus in hospitals. We stated that nurses who have no symptoms are unlikely to be a real source of transmission and that it was “illogical” to force healthy nurses to mask. Our renowned witnesses included Dr. Michael Gardam and Dr. Camille Lemieux, Infection Control experts from University Health Network, Quebec epidemiologist Dr. Gaston De Serres, and Dr. Lisa Brosseau, an American expert on masks.

The Decision

After carefully considering the detailed evidence, Arbitrator Hayes stated in his September 8th decision that he found the policy to be unreasonable, noting that the requirement to “Vaccinate or Mask” was a “coercive tool” to force health care workers to receive the immunization. Arbitrator Hayes sided with ONA’s expert witnesses and concluded that there was “scant” evidence that forcing nurses to use masks reduced the transmission of influenza to patients, rejecting the hospital’s argument that “some” or “any” evidence on masks was enough to justify the VOM policy. He also found that the policy undermines the collective agreement rights of employees to choose to receive the vaccine or not.

“This decision is a significant win not just for our union, but for all unions across the country, and is expected to have a widespread impact on Ontario hospitals,” concluded Haslam-Stroud. “For that reason, hospitals, unions, health care workers and other stakeholders were watching this case very closely. Once again, ONA has paved the way when it comes to protecting our members, your rights and your patients.”

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