

Surge in COVID Vaccine-Related Cases Against Physicians: Insights from a NY Medical License Defense Lawyer

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Insights from a NY Medical License Defense Lawyer

Herein I bring attention to recent trends seen in matters in which I have represented physicians as a [New York Medical License Defense Lawyer](#). Recently, especially during 2023 and in the first months of 2024, I have seen a substantial increase in the number of cases brought against physicians involving COVID vaccines. Many accusations are being made relating to COVID vaccine administrations (or the purported lack of administration).

Accusations against doctors relating to purportedly fraudulent conduct or fraudulent documentation, relating to allegedly insufficient clinical reasoning for vaccine exemptions, and relating to a lack of a noted discussion about risks, benefits and alternatives with the patient are some of the most common issues. Public school requirements, summer day camp requirements, sleep away camp requirements, and employment related requirements are some of the most common places where the issue of vaccination comes up. When discrepancies are spotted between a doctor's documentation and the documentation presented in any of those settings that is where many physicians are finding themselves on the radar of the licensing regulatory agency in New York.

Navigating the Legal Landscape: The Role of OPMC in Vaccine Exemption Cases

The most common cases the New York State Department of Health Office of Professional Medical Conduct ("OPMC") have been bringing involve accusations and allegations against physicians and other providers who were involved in as few as a handful of patient matters where they were writing vaccine exemptions. These OPMC cases became even more prevalent due to the Religious Exemptions for vaccines being eliminated by the NYS DOH in 2019 for the school vaccination requirements. Of course,

as should have been anticipated, many people who were utilizing the religious exemptions previously permitted in NY urgently sought out other avenues to avoid the vaccine requirements for themselves and their families when the NY laws changed in 2019. The subsequent increase in exemptions being written for clinical medical related reasons should come as a surprise to no one. However, what is surprising is that OPMC medical coordinator doctors (i.e. physicians who work for the State to determine if in their opinion conduct represents misconduct) are routinely taking issue with the reasoning their colleagues are using with the exemptions being issued.

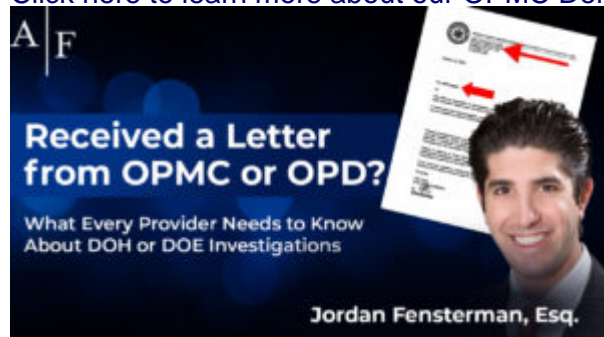
Providers who wrote COVID vaccine exemptions for any reason should be aware that they may be [receiving a letter from OPMC requesting and interview](#) to discuss the issues under investigation. “Discuss the issues under investigation” is the key phrase that should alert a physician when they receive the letter that obtaining the advice of legal counsel would be prudent. The reason to involve counsel immediately is because it is critical that any information being given to OPMC by providers be conveyed in a way that does not expose them to added liability. One statement made to State investigators may materially and significantly alter the course of an entire investigation. The most magnanimous and caring of physician may still find themselves under the uncomfortable gaze of an OPMC prosecutor in a hearing if the wrong information is stated to the investigators at the initial stages. The initial interview discussion and description given to OPMC investigators by doctors is often what the Board of Professional Medical Conduct attorneys will utilize as the basis to bring action against providers charging them with professional misconduct.

Legal Representation and Defense: A Cornerstone for Physicians Facing OPMC Investigations

If you received a letter from OPMC recently it is strongly encouraged that you reach out to experienced counsel to review your case and discuss your options and legal requirements going forward.

[Jordan Fensterman](#) represents and defends doctors and other health care professionals from his primary physical office location in New Hyde Park, New York, twenty (20) minutes from the east side of Manhattan, New York City, NY. Mr. Fensterman represents and defends Physician’s, Physician’s Assistants, and Specialists Assistants throughout New York State. He was one of the first two graduates from his law school’s health law program when it was initially established over fifteen (15) years ago.

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