

## The United States Law Week



# Why the NYS Bar Association Wants Mandatory Covid-19 Vaccinations Considered

By Scott M. Karson  
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The New York State Bar Association's House of Delegates recently approved a resolution calling for the state to consider requiring residents be inoculated against Covid-19 based on guidelines established by public health experts, when available. Bar President Scott M. Karson explains why.

Thus far, three major developers of Covid-19 vaccines have reported promising results from late-stage trials. More announcements are undoubtedly on the way. Now attention is turning to how to ensure that enough people are inoculated to create sufficient immunity to finally end this deadly pandemic.

Manufacturers will not initially be able to make enough doses to meet the need, making it imperative that public officials come up with a plan that prioritizes members of vulnerable communities—frontline workers, the elderly, and people of color who have been disproportionately affected in the pandemic.

When supplies increase, attention will shift to convincing those who might be reluctant to voluntarily participate that a vaccine is both safe and effective.

New York's laws rightly acknowledge that one person's health can have a significant impact on the life of another. As a result, certain individual freedoms can be limited in order to safeguard the needs of the many.

My colleague Mary Beth Morrissey, program chair of the New York State Bar Association's Covid-19 Task Force on health issues, said in a statement Nov. 7 that in "balancing the protection of the public's health and civil liberties, the Public Health Law recognizes that a person's health can and does affect others."

### An Extraordinary Step

Taking this into consideration, the New York Bar Association's governing body, the House of Delegates, approved a resolution Nov. 7 that calls for the state to consider mandating vaccination based on guidelines established by public health experts.

The state should only take this extraordinary step, NYSBA determined, if a vigorous education campaign fails to encourage enough voluntary participation.

This is not a novel concept. All 50 states have had vaccine mandates for elementary and college students for many years. In New York, every child enrolled in both lower and higher education must be vaccinated for a variety of illnesses— including polio, mumps, rubella, chickenpox and more. Like Covid-19, these diseases are both highly infectious and potentially deadly.

### **Ending Religious Exemptions**

New York last year strengthened its commitment to vaccines as an important tool to protect public health when Gov. Andrew Cuomo (D) signed into law a bill ending exemptions based on religious beliefs. This was in response to the worst measles outbreak the nation had seen in decades, which was significant, but also pales in comparison to the Covid-19 crisis.

I want to dispel the notion that a mandatory vaccine, under NYSBA's recommendation, would be given against a person's will. But like other New York vaccine mandates, it would restrict residents from participating in community life and taking certain jobs if they chose not to participate.

Everything from childcare programs to enrolling in college, to working in health care could be off-limits, depending on how such a mandate was structured.

### **Protecting the Vulnerable**

Among NYSBA's core missions is to use the considerable expertise of its members to advise decision makers and elected officials about the legal ramifications and impacts of significant policy proposals.

On the matter of vaccines, the association weighed in based on the belief that the primary function of government is to protect its citizens and keep them safe, and, as such, must consider all possible avenues to achieve that goal.

With more than 267,000 Americans dead as of Nov. 30 and hundreds added to that grim statistic every day, it is our responsibility as legal experts to offer guidance to policy makers. This is a task we do not take lightly. That was our goal in drafting and releasing these recommendations.

We have a moral imperative as a society to collectively protect the least and most vulnerable among us. Our ability to do so defines us as a nation.

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