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MAR Legal Hotline Q&A



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Q. May a landlord use COVID vaccination status in screening prospective tenants?

A. While vaccination status itself is not a protected class, the reason an individual is unvaccinated may be because of a protected characteristic, such as children under the age of 12 or individuals with disabilities. A landlord wanting to use vaccination status as a screening tool would need to be prepared to allow exemptions to the policy in these types of situations and should be advised to work closely with an attorney in doing so.

Landlords looking to prevent the spread of COVID in their properties may instead want to consider policies for common areas of the building, such as frequent sanitization, asking tenants to wear masks and avoid congregating in large groups.

Q. What happens now that the Supreme Court struck down the CDC Eviction Moratorium?

A. On August 26 the U.S. Supreme Court issued an opinion that ended the CDC moratorium on evictions that was in place through October 3. As many expected, the Supreme Court reasoned that the CDC exceeded its authority in issuing the moratorium and any such rule would have to be enacted by Congress.

With the moratorium no longer effective, Massachusetts courts may now issue final execution orders in eviction cases regardless of COVID-19 impacts. Those eviction cases in which tenants have pending rental assistance applications will continue to be placed on hold until the applications are resolved.

Massachusetts is a national leader in distribution of rental assistance funds. REALTORS® working with landlord clients should continue to be an educational resource for these clients regarding what rental assistance funds may be available and explaining a landlord's options when a tenant is in arrears.

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