



President Biden Focuses On Vaccine Distribution – What Employers Need To Know To Help Employees Roll Up Their Sleeves

Insights

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President Biden recently issued his National Strategy for the COVID-19 Response and Pandemic Preparedness, and an important component of the plan released on January 21 is to “jumpstart” the vaccination process. The administration has stated that it will “spare no effort” in aggressively ramping up the national vaccination program, and President Biden has promised a target of 100 million shots by the end of his first 100 days in office. We anticipate that employers will play an important role in achieving this goal.

This article will provide some background on President Biden’s vaccination plan, along with some suggestions on how employers can prepare for this vaccination push. As noted in a companion Alert, the new administration has set forth its roadmap on how it plans to address the COVID-19 pandemic, including initial executive actions aimed at the crisis. As to the vaccination program, President Biden has taken immediate actions to meet his aggressive vaccination target, including:

- Directing relevant agencies to exercise all appropriate authorities, including engaging the powers of the Defense Production Act to help “accelerate the manufacture, delivery, and administration of COVID-19 vaccine”;
- Authorizing the Federal Emergency Management Agency to begin standing up the first federally supported community vaccination centers, with the goal of 100 vaccination centers in the next month;
- Directing the Centers for Disease Control and Prevention (CDC) to launch the federal pharmacy program with the goal of providing vaccines to community pharmacies beginning in February;
- Tasking the U.S. Public Health Service Commissioned Corps with expanding its workforce to prepare for the increased deployment of the vaccine; and
- Establishing COVID-19 Response Liaisons for each state.

In addition to these steps, the new administration has established a COVID-19 response office that will be responsible for coordinating the response across all federal departments and agencies.

As previewed in our prior Alert on the expected plan, these proposals will impact employers who have made the decision to encourage employees to get the vaccine. As we noted in that alert:

At a minimum, these activities offer the potential for more workers to have access to vaccinations sooner, thus giving employers the chance to more fully restore their operations sooner.

The current vaccination efforts have been underway with most healthcare employers. However, employers of many essential or frontline workers are still waiting for the vaccine.

What Employers Can Do Now To Prepare Their Essential Workers For The Vaccine

In anticipation of this vaccine push by the federal government, employers of these essential workers may want to consider the following steps to set the table for the vaccine once it becomes available to your essential workers.

1. Determine Whether To Mandate, Encourage, Or Stay Neutral

Given the uncertainty and potential legal ramifications surrounding the vaccine, most employers have made the decision to encourage, not mandate, employee vaccinations. Some have taken a hands-off approach. If your company is considering mandating the vaccine for some or all employees, we recommend that you carefully review the liability, employee morale, and other issues.

If you choose to encourage vaccinations, you should carefully consider how to approach your workforce. As noted below, the best approach is to launch information and education campaigns designed to encourage participation. With vaccine supplies limited, you should provide guidance to your employees on the timing of the vaccination process and how your state or jurisdiction is distributing these vaccinations.

Additionally, the government has made distinctions within the workforce between “essential” and “non-essential” employees. You should be prepared to document those employees you consider as essential. You should be prepared to provide your workforce with information regarding these distinctions so that your employees can more easily determine when they might be eligible to receive the vaccine should they desire to do so.

To help further these efforts, some companies are providing their employees additional support and even incentives to encourage vaccination of those reluctant workers. While you may consider the idea of offering monetary, PTO, or other beneficial perks to encourage your workforce to get vaccinated, you should again recognize that there are uncertainties and potential legal ramifications associated with this process and consult counsel on these policies.

2. Develop A Plan And Appoint A Vaccine Coordinator Or Committee

If you have not already done so, **develop a plan of action** that establishes the company’s policy and goals. The plan does not need to be detailed, but it should set up a minimum set of policy objectives. Does your company want to mandate vaccinations? Will your company encourage or incentivize employee vaccinations? Will your company assist employees interested in the

vaccine? If so, how will your company communicate this information to employees? A thoughtful plan of action can help assure all – from senior management to frontline workers – understand the company’s perspective and policies on the vaccination process.

To assist consistency in the plan and message, you should **appoint a vaccine coordinator or a committee**. The coordinator can serve as a point person for the company program, assisting in implementing the plan development and the rollout. The coordinator will also be able to assist in educating employees about the vaccine rollout. A coordinator can direct traffic and assist employees who choose to get the vaccine on how to sign up for vaccination, identify vaccine locations, or sign up for a government registration.

3. **Educate Your Workers**

One of the goals outlined in President Biden’s National Strategy for the COVID-19 Response and Pandemic Preparedness is to “mount a safe, effective, comprehensive vaccination campaign.” This campaign will be a coordinated effort across national, state, and local levels, and will engage with the private and public sector. Funding and additional resources will be used to spread materials covering topics like masking, testing, vaccinations, and vaccine hesitancy, and will include communications in multiple languages to maximize reach and effectiveness.

To align with this goal, you may want to assist in this campaign and educate your employees. Many employers have continued to provide information on the importance of maintaining public health measures such as masking, physical distances, and testing. You may now want to provide informational resources that can help workers understand the vaccination process. Such resources may come from the applicable state’s Department of Health, information resources from the CDC, or from other governmental agencies. In fact, you may want to consider distributing employee education materials, or even preparation of a video presentation for employees.

4. **Request Priority Status**

Most states and jurisdictions are drawing priority distinctions within the workforce between “essential” and “non-essential” employees. Some companies have already taken the affirmative steps to request priority status for workers based on the type of industry, emphasizing the important role of their critical workforce. While the Department of Homeland Security has deemed certain infrastructure as critical, some employers fall within a grey area without clear indicators of whether their employees are “essential” or “non-essential.” Requesting and explaining your priority status to the appropriate state or local authority may accelerate the availability of the vaccine to your workforce.

5. **Consider Vaccine Registration When Provided**

In lieu of a federal vaccine management system, states and jurisdictions across the United States are using different web-based applications for vaccination clinic management. Many states and

are using different web-based applications for vaccination clinic management. Many states and jurisdictions have adopted the CDC created an online registration program called the Vaccine Administration Management System (VAMS). The VAMS application is a secure, web-based tool built to help health departments, vaccination clinics, organizations, employers, and vaccine recipients manage COVID-19 vaccination efforts.

While some states and jurisdictions have adopted VAMS as their platform, others are using different web-based applications or even telephonic hotlines. You should keep abreast of the scheduling platforms utilized by your state or jurisdiction and provide informational resources or assistance to your employees regarding this vaccine registration process.

Conclusion

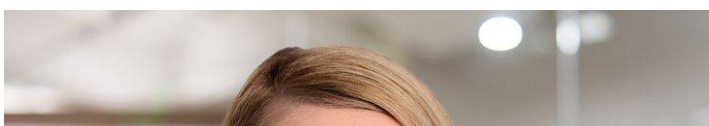
We will continue to monitor developments related to the COVID-19 vaccines and related workplace questions that arise. Make sure you are subscribed to [Fisher Phillips' alert system](#) to get the most up-to-date information. If you have questions about how to ensure that your vaccine policies comply with workplace and other applicable laws, visit our [Vaccine Resource Center for Employers](#) or contact the authors, your Fisher Phillips attorney, or any attorney on our [FP Vaccine Subcommittee](#).

This Legal Alert provides an overview of developing workplace issues. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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