

CALIFORNIA TO REQUIRE HEALTHCARE PROVIDERS AND STATE EMPLOYERS TO ASCERTAIN EMPLOYEE VACCINATION STATUS

Insights
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Not vaccinated yet? Do you work for a healthcare provider in California or the State of California? Then be prepared to get tested for COVID-19 on a weekly basis for the foreseeable future. In an effort to increase the number of vaccinated individuals in California, Governor Newsom just [announced](#) that the state will soon require all healthcare workers and state employees to show proof of a COVID-19 vaccination or be subjected to weekly testing. In doing so, Governor Newsom is “implementing first-in-the-nation standard to require all state workers and workers in health care and high-risk congregate settings to either show proof of full vaccination or be tested once per week, and encourage all local government and other employer to adopt a similar protocol.” What do you need to know about this July 26 announcement?

Why Now?

California has seen a marked increase in COVID-19 infections and hospitalizations due to the Delta variant over the past several weeks. Although over 75% of eligible individuals have received at least one dose of the vaccine, hospitals within the state are seeing increasing numbers of people in need of treatment – most of whom refused the vaccine. These unvaccinated individuals are being admitted to the ICU and dying in increasing numbers. Governor Newsom referred to the increase in hospitalizations and death as the “pandemic of the unvaccinated.”

The Details

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The requirement applies to state employers, healthcare facilities, and to those in high-risk congregate settings (such as adult and residential facilities, homeless shelters, and jails). Once the policy goes into effect, employees in these industries must provide proof to their employers they have been fully vaccinated. If the employee is not vaccinated, then the employer must test the individual *at least* weekly for COVID-19. All unvaccinated healthcare workers will also be required to wear mandatory PPE.

California's policy will go into effect for all state employees on August 2. The new policy for healthcare and congregate facilities will take effect on August 9.

While California's policy may be the first state wide policy to require certain employees to *verify* whether or not they have been vaccinated, cities within California have already begun to impose this requirement (i.e., [Santa Clara County](#) was the first to require employers within the county to ascertain the vaccination status of Santa Clara-based employees, and [San Francisco](#) now requires City employees to show proof of vaccination status).

What's Next?

Other states and counties throughout the United States are going beyond California's new requirements and **mandating** the vaccine. Santa Clara, leading the way in California once more, will soon require its 22,000 county employees to be vaccinated. Hospitals throughout the U.S. have begun to mandate a COVID-19 vaccine as conditions of employment, including hospitals in [Boston](#) and [Houston](#). Additionally, over 60 health care and long-term care providers just issued a [joint statement](#) urging employers (both in the healthcare community and beyond) to mandate the vaccine for all employees. The federal government has also begun to mandate vaccines for employees in certain departments. This week, the [Department of Veteran Affairs](#) became the first federal agency to mandate the COVID-19 vaccine for most health care workers.

What Should You Do?

If you are a healthcare employer in California, the time is now to establish a system for requesting proof of vaccination and testing those who do not provide such proof. While we await further guidance from the governor's

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office, healthcare employers can begin to prepare for August 9 by considering the following:

- How will you communicate the new policy with your workforce (electronically, a meeting, or through written materials)?
- How will you best securely store the information collected from your employees (electronically or in a hard copy personnel file)?
- Do you have a compliant policy regarding reasonable accommodations – specifically how to handle a request for a religious or medical accommodation?

Regardless of whether you are in the healthcare system, you should review our ["7 Issues to Consider Before Your Company Requires Vaccines"](#) Insight if your business is contemplating a vaccine mandate. We will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. Please be sure to contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our California offices](#) should you have any questions.