

Insights, News & Events

HOSPITALS MANDATING COVID-19 VACCINE: A TREND IN THE HEALTHCARE FIELD?

Publication
Aug 3, 2021

Hospital systems across the country are coming face to face with a new and more contagious variant of COVID-19 while large numbers of hospital workers remain unvaccinated. According to a recent American Medical Association [survey](#), a large portion of workers in the healthcare industry remain [unvaccinated](#). Complicating the challenge, many hospitals remain understaffed below pre-pandemic levels, although urgent care and outpatient centers have seen a hiring boom in the recent months.

Best Approach?

Hospital systems continue to wrestle with the best approach to increase their percentages of unvaccinated workers while minimizing the risk of driving increased turnover or sparking serious workplace distractions. Unvaccinated workers not only present health risks to hospital personnel and patients, but also a threat to already strained staffing demands. Currently, if an unvaccinated employee is exposed to COVID-19, the exposed employee must quarantine instead of physically reporting to work.

With vaccines readily available, many hospitals face questions about how to reduce their percentage of unvaccinated workers. Most systems are continuing to strongly encourage vaccines without requiring them. Some hospitals are waiting for the Federal Food and Drug Administration to fully approve vaccines and remove the Emergency Use Authorization before requiring them. And a gradually increasing number of hospitals and healthcare organizations have announced that they will be requiring

Related People



Alyssa Graf

Associate

818.230.4263

Industry Focus

Healthcare

vaccinations or [already started to mandate](#) the vaccine. But, as we have previously explained, vaccine [mandates trigger additional legal duties and can lead to workplace distractions or litigation](#).

Mandates Gaining Steam in Healthcare

Houston Methodist Hospital (Methodist) was the first major health system in the country to require the COVID-19 vaccine. Methodist approved hundreds of medical and religious exemptions and provided pregnant employees extra time to comply. By the time the compliance deadline approached, nearly 200 employees still refused to be vaccinated and were suspended as a result. Over 117 employees filed suit claiming that the mandate was illegal, that the vaccines were experimental and dangerous, and that Houston Methodist was coercing its employees to get vaccinated.

In June, [a federal judge in Texas ruled in favor of Methodist](#). U.S. District Judge Lynn Hughes rejected the employees' arguments, saying that if the employees choose not to be vaccinated, they can simply go work elsewhere.

Methodist's policy dovetailed with guidance issued by the EEOC. In May 2021, the EEOC updated that guidance stating that the federal laws it oversees do not prevent an employer from requiring workers to be vaccinated. The EEOC requires employers to provide reasonable accommodations for employees who are unable to be vaccinated due to a disability or sincerely held religious beliefs or practices. The EEOC also emphasized that employers may not institute a vaccine requirement that would treat employees differently based on a protected category such as disability, race, color, religion, sex, national origin, or age. State and local laws may also affect the parameters of any contemplated employer mandate.

Recently, more hospital systems in various states have announced that their employees will have to be vaccinated. A New Jersey hospital system just fired 6 supervisors for refusing COVID-19 vaccines. That system employs over 35,000 people and – similar to the stand taken by Houston Methodist – [cited](#) an "ethical and professional responsibility to protect our patients and ensure a safe, COVID-19 free environment." Hospital systems in North Carolina, Arizona, Michigan, Maryland, Virginia and Missouri have also announced that they will require all personnel to be fully

vaccinated by a certain date, and no doubt more will continue to follow the same path.

Conclusion

We will monitor these developments and provide updates as warranted, so make sure that you are subscribed to [Fisher Phillips' Insights](#) to get the most up-to-date information direct to your inbox. If you have further questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our [Healthcare Industry Practice Group](#).