



Maryland Mandates COVID-19 Vaccine or Regular Testing for All Nursing Home and Hospital Staff

Insights

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Two weeks after adopting a vaccine mandate for state-run residential health and correctional facilities, Maryland Governor Larry Hogan just announced a statewide vaccine mandate for private nursing home and hospital employees. The August 18 announcement means that Maryland will soon join Washington, D.C., Virginia, New York, California, and several other states in requiring vaccination or regular testing for healthcare workers. This latest mandate comes at a time when every county in Maryland has substantial or high levels of community transmission of COVID-19. What do healthcare employers need to know about this development?

Who is Covered?

The mandate is expansive and applies not just to providers or patient-facing employees, but to everyone who works at private nursing homes and hospitals operating in Maryland. The mandate covers all nursing home and hospital employees, contractors, volunteers, and others performing any duties at these facilities.

The new mandate is unlikely to affect many of Maryland's large hospital systems, most of which already adopted employee vaccination mandates. However, vaccination rates at many nursing homes in the state continue to lag, and this new requirement will have a direct effect on their operations.

What is Required?

Covered facilities will have to act quickly as employees, contractors, and volunteers must show proof of a first dose (or completion of a single dose vaccine) of a COVID-19 vaccine by September 1 and are required to complete the full shot regimen thereafter. The mandate requires employers to develop procedures to handle non-compliance, requiring at a minimum that unvaccinated employees be tested for COVID-19 at least once a week and required to wear appropriate personal protective equipment in the workplace.

Covered employers are also required to develop processes to allow for reasonable accommodation requests for bona fide medical or religious reasons.

Sunset Provision

The mandate is set to automatically expire on December 31, 2021 or when the federal declaration of a public health emergency as a result of COVID-19 is terminated, whichever comes first.

Penalties of Non-Compliance

Facilities that fail to comply with the Order face administrative and criminal sanctions.

Takeaways for Maryland Healthcare Employers

Maryland hospitals and nursing homes must take prompt action to implement the state's mandate. Covered employers should adopt a written vaccine/testing policy compliant with the state mandate, including allowances for employees to request reasonable accommodations for medical or religious reasons. Since the Order requires employees to show proof of vaccination, covered employers will also need to develop a process to examine vaccination cards and record vaccination status while honoring the EEOC's position that the vaccination cards constitute confidential medical records.

Covered employers would also be well advised to record the dates of employees' vaccine doses given the increasing likelihood that "fully vaccinated" could soon include a booster shot at a set time after the first vaccination regimen.

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 Washington, D.C. Metro office should you have any questions.

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