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CDC Provides Guidance for Workplace Vaccination Programs

Law and the Workplace Blog on **March 18, 2021**

On March 16, 2021, the CDC issued updated guidance for employers regarding COVID-19 vaccinations and the workplace. This guidance focuses on considerations for mandatory vaccination programs, reopening the workplace after employees have been vaccinated, and general best practices regarding vaccinations. Below, we highlight the key aspects of this guidance.

Mandating Vaccination

Similar to recent guidance issued by the EEOC, the CDC appears to acknowledge that mandatory vaccinations are permissible under federal law, provided that employers provide (1) medical exemptions for people who may be at risk of an adverse reaction to the vaccine, and (2) religious exemptions for people who hold a religious belief that prevents them from getting the vaccine. The guidance does note that employers should also consult state or local law before requiring vaccinations.

Reopening the Workplace after Vaccination

Widespread vaccination of the workforce is one factor that employers should take into consideration when deciding whether to reopen the workplace. The CDC advises that even after employees receive the COVID-19 vaccine, they should continue taking steps to protect themselves and others in the workplace, including wearing masks, social distancing, washing hands, and staying home when sick. Moreover, workplace health and safety measures that have already been installed, such as barrier protections, must remain in place.

Workforce Vaccination Options

The CDC's guidance lists several factors for employers to consider when determining how to vaccinate their workforce. Employers who have a large number of workers with predictable schedules, the ability to enroll as a vaccination provider or engage an enrolled vaccination provider, and enough space to set up a vaccination clinic while still maintaining social distancing are well-suited for an on-site vaccination program. Conversely, the CDC recommends an off-site vaccination program for small- or medium-sized employers that have a mobile workforce, workers with highly variable schedules, or a majority of workers who would prefer vaccination in a community clinic.

For employers who choose to implement an on-site vaccination program, the CDC recommends using existing occupational health clinics, establishing an employer-run temporary vaccination clinic, or using mobile vaccination clinics that can be brought to the workplace. The CDC further recommends that employers hosting an on-site program contact their local health department for guidance and seek input from management, HR, employees, and labor representatives. The guidance states that workplace vaccination clinics should offer vaccination to *all* workers—including independent contractors and temporary employees—at no charge and during work hours. Nevertheless, employers should also develop a plan to prioritize who gets vaccinated first if the vaccine supply is too low to vaccinate all eligible workers. Employers must also ensure that their on-site vaccination provider is prepared to manage allergic reactions to the vaccine.

The CDC recommends that employers who choose to vaccinate their workforce off-site do so through clinics at community locations, pharmacies, hospitals, and healthcare provider offices. Employers should take steps to encourage off-site vaccination, such as by allowing employees to get vaccinated during work hours or by providing paid leave for employees to get vaccinated (note: New York recently enacted a law requiring paid vaccination leave); supporting transportation to off-site clinics; informing employees about what they will need to bring to their vaccination appointment; educating employees about vaccine eligibility; and assisting eligible employees with making their vaccine appointments.

All employers should review CDC, state, and local guidance regarding which of their employees are eligible for the vaccine. The CDC recommends that employers who operate in multiple states and countries establish a vaccination committee and/or immunization champion to monitor vaccination rollout across jurisdictions and notify employees when they are eligible. Employers should also consider staggering employee vaccinations to avoid worker shortages due to vaccine side effects.

Best Practices Regarding Vaccination

Whether offering vaccination on or off-site, the CDC recommends that employers follow certain best practices regarding COVID-19 vaccination, including:

- offering flexible, non-punitive sick leave options for employees who experience signs and symptoms after vaccination;
- allowing time for employees' vaccine confidence to grow over time;
- for on-site vaccination programs, offering employees more than one opportunity to get vaccinated,
- for off-site vaccination programs, providing paid leave and transportation support; and
- asking organizations and individuals who are respected within the employee community to help build vaccine confidence.

Building Employee Vaccine Confidence

The CDC encourages employers to build their employees' trust in the vaccine by making confidence visible in the workplace. The guidance outlines several steps that employers can take to build vaccine confidence, including:

- encouraging leaders who reflect the diversity of the workforce to be "vaccine champions" and inviting them to share with employees the importance of being vaccinated and their personal reasons for getting vaccinated;
- transparently communicating information about the vaccine to employees, and providing regular updates on the vaccine's benefits, safety, side effects, and effectiveness and what is *not* known about the vaccine; and
- sharing key messages about the vaccine and its benefits with employees through breakroom posters, emails, and other communication channels.

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