

Electronic Alert

Volume 25, Issue 4

February 1, 2022

Current Status of Federal & State Vaccine Rules for Healthcare Employers

By Natalie Pattison & Amy Angel

Healthcare employers in Oregon take note: the Oregon Health Authority (“OHA”) filed a permanent rule keeping in place vaccination requirements in healthcare settings, and enforcement begins for the Center for Medicare & Medicaid Services (“CMS”) vaccine rule recently upheld by the Supreme Court.

OHA Vaccine Requirement for Healthcare Workers

On January 31, 2022, OHA filed a permanent rule keeping in place requirements regarding vaccination and masking for healthcare providers and staff in healthcare settings.

The permanent rule largely tracks the temporary rule which recently expired. Like the temporary rule, the permanent rule provides that healthcare providers and healthcare staff may not work, learn, study, assist, observe, or volunteer in a healthcare setting unless they are fully vaccinated or have provided documentation of a medical or religious exception.

The CMS Rule

In the wake of the Supreme Court’s decision upholding the CMS vaccination rule discussed here, covered Oregon healthcare employers should review the rule carefully, as it may apply to workers not covered by OHA’s rule.

The CMS Rule requires that staff working at almost all CMS-certified facilities that participate in the Medicare and Medicaid programs be vaccinated unless exempt for qualifying medical or religious reasons. The rule applies to all current staff as well as any new staff who provide care, treatment, or other services for the facility and/or its patients, including facility employees, licensed practitioners, students, trainees, and volunteers. It also includes individuals who provide care, treatment, or other services for the facility and/or its patients under contract or other arrangements.

Covered employers are required to establish a process or policy to fulfill the staff vaccination requirement over two phases:

Phase 1: Covered staff must have received, at a minimum, the first dose of a primary series or a single dose COVID-19 vaccine prior to staff providing any care, treatment, or other services for the facility and/or its patients. For Oregon, the deadline for Phase 1 was January 27, 2022.

Phase 2: Covered staff must complete the primary vaccination series (except for those who have been granted exemptions from the COVID-19 vaccine or those staff for

whom COVID-19 vaccination must be temporarily delayed, as recommended by the CDC). For Oregon, the deadline for Phase 2 is February 28, 2022.

Note that the deadlines for compliance vary by state, so employers should be aware of the deadlines applicable to the states in which their employees are located.

Employers should reach out to counsel with questions regarding coverage or compliance with these rules.

For questions about vaccine mandates or for any other matters related to COVID-19 in the workplace, contact Natalie Pattison or Amy Angel at 503-228-0500, or at npattison@barran.com or aangel@barran.com.