The nation's largest healthcare groups and associations have released separate statements endorsing the position that all healthcare workers should be fully vaccinated and supporting the implementation of mandatory COVID-19 vaccination policies in hospitals and health systems nationwide.
On July 21, 2021, the American Hospital Association (“AHA”), an organization representing close to 5,000 members, released a statement urging all healthcare workers to be fully vaccinated. The statement also voiced the AHA’s support of hospitals and healthcare systems that adopt mandatory COVID-19 vaccination policies for workers, while recognizing that such policies must be shaped by local laws and other factors impacting whether and how those policies are implemented. Similarly, America’s Essential Hospitals (“AEH”), an association representing more than 300 members, also released a similar statement encouraging mandatory vaccination policies. AEH’s statement concludes by urging its member hospitals to “take quick action, consistent with federal and state guidance and laws, to require vaccination for their employees.”

The AHA encourages healthcare systems to take certain steps to facilitate an orderly roll out of any mandatory policy, including:

- Providing exemptions to the policy for medical reasons and accommodations (e.g., a sincerely held religious belief);
- Following relevant CDC guidelines, OSHA requirements, and other applicable state or federal law and/or guidelines regarding the use of personal protective equipment and other infection control practices for unvaccinated workers who have been granted an exemption or accommodation;
- Implementing the policy in compliance with applicable local and state laws;
- Following CDC and FDA guidelines on how to determine which workers are eligible and should be prioritized for vaccination;
- Monitoring data relating to FDA authorized or approved vaccines that are being distributed;
- Providing workers with information about the efficacy and safety of the COVID-19 vaccine in an effort to encourage voluntary vaccinations; and
- Offering flexibility in workers’ schedules to permit time for workers to receive the vaccine and recover from potential side effects.

Shortly after the AHA and AEH released their statements, a group of more than 50 health care organizations (including the American Medical Association, the American College of Physicians, the American Academy of Pediatrics and the American Public Health Association) released a joint statement calling all healthcare and long-term care employers to create a mandate requiring that their employees receive the COVID-19 vaccine.

These statements follow a recent trend set by local state hospital associations, including the Connecticut Hospital Association and Virginia Hospital & Healthcare Association, where such organizations have voiced their support of mandatory COVID-19 vaccination policies for healthcare workers. Additionally, dozens of hospitals and healthcare systems nationwide have publicly announced the implementation of a mandatory COVID-19 vaccination policy for their workers.

Healthcare employers considering mandatory vaccination policies must consider key
legal and practical considerations in crafting any such policy. In addition to the items identified in the AHA statement, healthcare employers must consider additional factors, including: 1) additional obligations that may exist in unionized workforces; 2) interactive dialogue processes relating to accommodation requests; 3) employee relations considerations and messaging; 4) consequences for noncompliance; 5) applicable state and local laws and regulations; 6) whether and how the employer will confirm vaccination status and the coordination of related recordkeeping; and 7) the impact such a mandate will have on wage and hour compliance.

If you have questions about how these trends impact your business or on your company’s specific practices or policies, please reach out to the Jackson Lewis attorney whom you regularly work, or any member of our Healthcare Industry Team.

Summer law clerk Jennie Marco contributed significantly to this post.

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