

Biden orders private companies and healthcare institutions to mandate employee vaccines



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Yesterday afternoon, President Biden announced a series of executive actions and new federal rules to increase the number of vaccinated American workers. Noting that COVID-19 has killed more than 650,000 in the last 18 months, President Biden announced several expected executive orders and a forthcoming emergency OSHA rule. The expected rule will mandate that all companies with more than 100 workers require their employees to either be fully vaccinated or submit to weekly COVID-19 screening tests. By executive order, President Biden will mandate vaccines for health care workers, federal

employees and federal contractors. If federal employees refuse vaccination without a valid medical reason or sincerely-held religious belief, they may be subject to disciplinary action, up to and including termination of employment.

President Biden vowed to “protect vaccinated workers from unvaccinated co-workers” and to “reduce the spread of COVID-19 by increasing the share of the workforce that is vaccinated in businesses all across America.” Until President Biden’s September 9th speech, he had appeared hesitant to enact federally-mandated vaccine requirements—instead relying on individual corporate vaccine incentive programs to encourage vaccine compliance. In his speech, President Biden conveyed the urgent importance of corporate and federal vaccine mandates to increase individual employee vaccination rates. His new orders are likely motivated by the rapid spread of the COVID-19 delta variant, the FDA’s recent full approval of the Pfizer-BioNTech COVID-19 vaccine, and the effort to achieve critical herd immunity to ensure continued economic recovery and minimize the likelihood of incubating potentially-severe variants among the unvaccinated population.

To ensure larger employers enact “vaccination or weekly testing” policies, President Biden ordered the Occupational Safety and Health Administration (OSHA) to draft a rule requiring even private employers with 100 employees or more to enact such policies to maintain critical OSHA compliance. OSHA has indicated that it intends to take enforcement action against private companies that do not comply with the vaccine mandate, with potential fines of up to \$14,000 per violation.

Regardless of the number of employees, private hospitals and other healthcare institutions that accept Medicare and Medicaid reimbursements also will be required to enact similar mandatory vaccine policies, along with other federal contractors and federal agencies. In addition to these orders, President Biden also encouraged state governors to mandate vaccinations and/or weekly testing for entertainment venues,

and private and public schools to “make sure we are keeping students safe.”

Across all industries, approximately two-thirds of America’s workforce will be impacted by one or more of President Biden’s orders and requested rules related to mandated COVID vaccinations and/or regular screening tests.

Phillips Murrah will continue to monitor the publications of these promised orders and provide additional implementation guidance as it becomes available.

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