

MEMORANDUM

DATE: August 9, 2021

RE: OHA Issues New Rule About Healthcare Employee Vaccination/Testing

Since 1989, Oregon law has prohibited health care employers from requiring their employees to be vaccinated. However, on Friday the Oregon Health Authority issued a new regulation that specifically requires all health care employees to be vaccinated against COVID-19 or, alternatively, to undergo weekly COVID-19 testing. That rule, intended to combat the highly transmissible Delta variant, can be found [here](#).

- The rule applies to all “health care settings,” including hospitals, ASCs, out-patient clinics, medical and counseling offices, assisted living and residential facilities, behavioral health facilities, and pharmacies.
- The rule applies to all employees, students and volunteers who either provide direct patient or resident care, or who could potentially be exposed, directly or indirectly, to patients, residents or infectious materials. The rule specifically covers individuals licensed by a health regulatory board, as well as unlicensed caregivers and clerical, dietary, environmental services, laundry, security, engineering, facilities management, administrative, billing, student and volunteer personnel.
- The rule shifts the focus to the employee, stating that all health care employees must either be fully vaccinated or undergo weekly testing on a schedule determined by the employer. The only exceptions to the vaccination requirement are exemptions for individuals with disabilities or bona fide religious beliefs.
- The employer is responsible for all costs associated with obtaining proof of vaccination and weekly testing.
- Employers must adopt and enforce a policy that addresses proof of vaccination, testing and documentation requirements.
- The deadline for compliance with the rule is September 30, 2021, although employers can implement the new rule prior to that date.
- Employers and employees who fail to comply with the rule are subject to civil penalties of \$500 per day. However, the penalty provision will not be enforced until after September 30, 2021.

For more information, please contact our attorneys, [Amanda Walkup](#), [Andy Lewis](#), [Mario Conte](#) [Jeff Kirtner](#).

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.