

100M U.S. Workers to be Affected by Vaccine Mandate

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President Joe Biden has announced a new vaccine and testing mandate that applies not only to federal employees - as was originally expected - but also to an enormous swath of private employers and health care providers.

According to the [mandate announced Thursday](#), any employer with 100 or more employees must require its workers to be vaccinated or be subject to weekly COVID-19 testing. In conjunction with this mandate, employers will be required to give their employees paid time off to receive the vaccine and to recover from any side effects that they may experience from it.

Biden also signed an executive order directing that all employees of government contractors must be vaccinated with no option to be regularly tested to opt out.

In addition, health care facilities receiving funding from Medicare and Medicaid - including, among many others, hospitals and home health care agencies - will be required to have employees fully vaccinated.

Within just the private-sector alone, this mandate is expected to apply to approximately 80 million employees. In addition, it will apply to about 50,000 health care providers. In total, about two-thirds of all U.S. workers, or 100 million U.S. employees, could be subject to this vaccine and testing mandate. The penalty for failing to comply: a fine of up to \$14,000 *per* violation.

While Biden has previously urged private employers to require their employees to be vaccinated, this mandate is a surprise for business owners who expected this to be limited to federal workers or those within the health care industry. Under Biden's new plan, the U.S. Department of Labor's Occupational Health and Safety Administration (OSHA) has been directed to develop a rule to implement these mandates. It is expected to be released in the coming weeks.

Biden has also stated that he will invoke the Defense Production Act to compel companies to accelerate production of rapid tests to make testing more available.

Thursday's announcement is Biden's most aggressive measure against those who have chosen so far to not take the COVID-19 vaccine, and Biden has dropped the responsibility of vaccination requirements squarely on American businesses. Given that there have been various groups who have announced their [intent to litigate the order](#), employers may want to think about the timing of their preparations as there could be delays and/or changes to the rule expected from OSHA.

If you have any questions on how this new mandate could affect your company, please contact [Jennifer Craighead Carey](#), [Cody Witmer](#) or any member of the [Barley Snyder Employment Practice Group](#).

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