

## CAN YOU REQUIRE YOUR EMPLOYEES TO TAKE THE COVID-19 VACCINE?

After many months of darkness, there is finally a visible light at the end of the tunnel. The FDA is poised to issue emergency approval for a COVID-19 vaccine that by all measures appears far more effective than initially predicted. The State of Ohio has made clear that many OPRA members will be at the front of the line and should have access to the vaccine before year end.

While certainly welcome news, the availability of a vaccine raises a host of new issues for OPRA members. Chief among those issues is how to best encourage employees to take the vaccine. This tricky question raises practical, cultural, logistical, and legal issues.

The most pressing legal question is whether employers can require their employees to take the COVID-19 vaccine. With some limited exceptions, the answer to this question is yes – you can require your at-will employees to take the vaccine as a condition of continued employment. In fact, mandatory vaccination in the workplace is not a new concept, particularly among healthcare providers and those serving vulnerable populations.

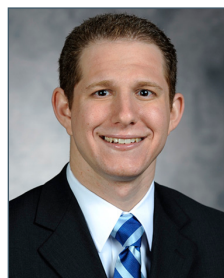
However, a mandatory vaccination policy does not override an employer's obligation to provide a reasonable accommodation for disabilities under the Americans with Disabilities Act or for conflicts with sincerely held religious beliefs under Title VII. If either of these situations arises, then the employer must engage in an interactive process with the employee to determine whether a reasonable accommodation exists. This obligation is highly fact specific and it is recommended that you consult with legal counsel if any such issues arise.

Like everything else associated with COVID-19, the landscape is fast changing. We expect that the Equal Employment Opportunity Commission and other relevant agencies will provide additional guidance on this topic. However, such guidance might not be available until after OPRA members have access to the vaccine. OPRA and Vorys will be watching for regulatory guidance and will keep the OPRA membership updated as developments arise.

As a reminder, all OPRA members are entitled to two (2) free hours of legal services from Vorys on an annual basis as a member benefit. For more information on the COVID – 19 vaccine, please contact Suzanne Scrutton or Ben Shepler.



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