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HEALTHCARE LAWYERS

Client Alert: Mandates in the Golden State: Do Not Get Distracted by National Mandate Mayhem

Mandates in the Golden State: Do *Not* Get Distracted by National Mandate Mayhem

Last week, we provided guidance on the *national* vaccination mandates, including the Healthcare Workers' Mandate issued by CMS, and (2) the 100-Employee Mandate issued by OSHA. After some rapid back-and-forth decisions on the federal circuit, the Supreme Court will hear challenges to both mandates on January 7, 2021. Because of Omicron, we believe the Court will act relatively quickly to render a decision. However, we recommend that California businesses and healthcare facilities remain focused on compliance with *state* mandates.

Generally, the scope of California's Covid-19 mandates is on parity with the federal rulings, if not more comprehensive. In addition, California is one of 22 states that has its own OSHA program (CAL/OSHA). As such, whenever a new federal OSHA regulation is passed, California has a 30-day grace period to establish an identical plan, or to adopt something similar that will be "at least as effective." What does this mean?

First, California healthcare personnel are already required to get vaccinations. This was mandated for employees at general acute care hospitals as well as other healthcare workers. All of whom must get booster shots by February 1, 2022. So, whether or not the Supreme Court approves the federal healthcare workers vaccine mandate, the Court's decision will have limited impact on California healthcare. In regards to the 100-Employee mandate—targeting companies *not* included in the national healthcare mandate—if that is approved as well, CAL/OSHA will have 30 days to decide to adopt or adapt the mandate for California businesses. The CAL/OSHA board is scheduled to meet January 20, 2022. We expect they will decide if new standards must be adopted by large California corporations in order to comply with the national 100-Employee mandate. We are monitoring the situation, and will send out updates accordingly. In the meantime, the state mandate for ***all* non-healthcare employers** goes into effect on **January 14, 2022**. By then, California employers, irrespective of their size, will need "to establish, implement, and maintain an effective *written* Covid-19 Prevention Program." The State has conveniently provided a fillable model program for employers.

Nelson Hardiman LLP
Healthcare Law for Tomorrow

Nelson Hardiman regularly advises clients on workplace policies related to Covid-19. We offer legal services to businesses at every point in the commercial stream of medicine, healthcare, and the life sciences. For more information, please contact us.

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