The University of Texas 33rd Annual Health Law Conference

Legal and Operational Considerations of COVID-19 Vaccine Mandates

Violet Anderson and Felicity Fowler

Speakers

Felicity A. Fowler

Partner
McGINNIS LOCHRIDGE
500 N Akard St., Ste. 2250
Dallas, TX 75201
and
609 Main St., Ste 2800
Houston, TX 77002

Office: 214-307-6961
Email: ffowler@mcginnislaw.com

Violet Anderson

Vice President
Regional General Counsel
CHRISTUS Health
919 Hidden Ridge
Irving, TX 75038

Office: 469-282-2352
Email:
violet.anderson@christushealth.org

Mandatory Vaccination for Healthcare Providers

- On November 5, 2021, the Centers for Medicare & Medicaid Service ("CMS") published an interim final rule ("CMS Rule") requiring Medicare and Medicaid certified providers and suppliers to develop polices and procedures requiring COVID-19 vaccination for staff.

- Despite numerous legal challenges to vaccine mandates across the US, including a challenge that ultimately resulted in the OSHA General Emergency Temporary Standard ("ETS") being overruled, the United States Supreme Court **upheld** the CMS Rule/vaccine mandate in a 5-4 opinion issued on **January 13, 2022**.

Mandatory Vaccination for Healthcare Providers: What about Texas?

- Due to other preliminary challenges pending in Texas, the CMS Rule was not enforceable in Texas until the Northern District of Texas dismissed the lawsuit filed by the State of Texas challenging the CMS rule on January 19, 2022.

CMS Rule: COVID-19 Requirements

- Facilities subject to the CMS Rule were required to:

  (1) develop a process or plan for vaccinating all eligible staff against COVID-19;

  (2) develop a process or plan for providing exemptions and accommodations for staff members who are eligible for an exemption from the COVID-19 vaccine requirement; and

  (3) develop a process for tracking and documenting staff vaccinations and exemptions.

CMS Rule: Deadlines for Compliance in Texas

- On January 20, 2022, CMS issued guidance specifically applicable to Texas, outlining the following requirements and deadlines:
  - CMS-covered facilities in Texas must have had their vaccination policies and procedures implemented by **February 19, 2022**, and all covered staff must have had at least the first dose of a vaccine or a pending exemption request as of February 19 for the facility to be in compliance with the CMS Rule.
  - On or before **March 21, 2022**, all covered staff must have been fully-vaccinated against COVID-19 or have received an exemption to be in compliance with the CMS Rule.

UT LAW CLE THE UNIVERSITY OF TEXAS TEXASLAW

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the UT Law CLE eLibrary (utcle.org/elibrary)

Title search: Legal and Operational Considerations of COVID Vaccine Mandates

First appeared as part of the conference materials for the
33rd Annual Health Law Conference session
"Legal and Operational Considerations of COVID Vaccine Mandates"