

# IN THE KNOW

Bulletins for Benefits & HR Professionals



DECEMBER 15, 2021

## Vaccine Mandate for Federal Contractors Enjoined Nationwide

"As we previously reported, President Biden issued Executive Order 14042 (the Order), which mandated that employees of contractors and subcontractors performing work on federal contracts be fully vaccinated against COVID-19 by January 18, 2022. Challengers from seven states—Georgia, Alabama, Idaho, Kansas, South Carolina, Utah and West Virginia (the Plaintiff States)—and various state agencies, filed suit against President Biden and his Administration, seeking injunctive relief against enforcement of the Order. On December 7, 2021, the United States District Court for the Southern District of Georgia granted the motion and issued a nationwide preliminary injunction against the enforcement of the vaccine mandate."

[Full Article](#)

*Epstein Becker Green*



## CMS Vaccine Mandate Blocked Nationwide

"On November 29 and 30, 2021, two separate federal district courts—the Western District of Louisiana and Eastern District of Missouri—issued injunctions blocking enforcement of the Centers for Medicare and Medicaid Services ("CMS") interim final rule ("vaccine mandate") requiring healthcare worker vaccinations. In combination, these rulings result in a nationwide preliminary injunction prohibiting CMS from enforcing the vaccine mandate."

[Full Article](#)

*Littler Mendelson*

## In This Issue

### Page 1

Vaccine Mandate for Federal Contractors Enjoined Nationwide

*Epstein Becker Green*

CMS Vaccine Mandate Blocked Nationwide

*Littler Mendelson*

### Page 2

Is the Customer Always Right? How Employers Should Respond to Patron Misconduct

*Proskauer Rose*

EEOC Expands Its COVID-19 Guidance to Address Retaliation

*Shawe Rosenthal*

As Employers Race to Fill Gaps in the Labor Market, Pay Practices Are Likely to Come Under Scrutiny

*Venable*

It's Here! Federal Contractor Affirmative Action Program Verification Portal Opens in 2022

*Duane Morris*

### Page 3

State & International Compliance Updates

## Is the Customer Always Right? How Employers Should Respond to Patron Misconduct

“As anyone who has worked in a customer-facing job can tell you, dealing with difficult customers often comes with the territory. However, when customer behavior crosses a line into illegal conduct like sexual harassment, both the customer and the employer may find themselves in hot water. Wynn Las Vegas, a Nevada hotel, learned the hard way recently when an appellate court reinstated a lawsuit filed against the hotel by one of Wynn’s employees, Vincent Fried, in *Fried v. Wynn Las Vegas*. Fried argued that Wynn was liable for creating a hostile work environment not because of any harassment by a boss or coworker but rather by a customer.”

[Full Article](#)

*Proskauer Rose*



## EEOC Expands Its COVID-19 Guidance to Address Retaliation

“Throughout the pandemic, the Equal Employment Opportunity Commission has continuously updated its COVID-19 Guidance to provide employers with assistance on issues arising under the anti-discrimination laws that it enforces. This month the EEOC added a new section, simply reminding employers of the existing prohibition on retaliation against employees for exercising rights under these laws.”

[Full Article](#)

*Shawe Rosenthal*

## As Employers Race to Fill Gaps in the Labor Market, Pay Practices Are Likely to Come Under Scrutiny



“Many of the companies that were forced to dramatically downsize their workforces in response to the onset of the pandemic are now the same companies struggling to fill the vacancies in their labor forces as the economy recovers. In response to the recent worker shortage, many employers have reassessed their recruiting practices, increased wages, implemented hiring bonuses, or installed flexibility incentives to entice workers. Despite these enhanced incentives, many industries continue to report labor shortages.”

[Full Article](#)

*Venable*

## It's Here! Federal Contractor Affirmative Action Program Verification Portal Opens in 2022

“In order to increase compliance, in September 2020, the Office of Federal Contract Compliance Programs (OFCCP) requested the Office of Management and Budget (OMB) to approve a new information request providing the collection and monitoring of affirmative action programs (AAPs) through an online platform, also referred to as the verification interface or contractor portal. In August 2021, the OMB approved OFCCP’s information collection request and authorized establishing the contractor portal. Now, OFCCP has announced its schedule for the contractor portal.”

[Full Article](#)

*Duane Morris*

# State & International Compliance

## NEW YORK



### NYC Issues Vaccine Mandate for Private Employers

"New York City Mayor Bill de Blasio, whose term as mayor ends on January 1, 2022, has announced that the city's Department of Health will issue a mandate requiring full vaccination of any employee of a private sector business. Details are expected to issue on December 15 flushing out the terms of the mandate, which goes into effect December 27."

[Full Article](#)

*Vinson & Elkins*

## FLORIDA



### Florida Medicare and Medicaid Providers' Vaccine Mandate Dilemma

"Florida healthcare providers billing federal programs may again face a complicated COVID-19 quandary. The U.S. Court of Appeals for the Eleventh Circuit has denied the state of Florida's request for an injunction against the Centers for Medicare & Medicaid Services (CMS) mandate requiring all staff of Medicare and Medicaid-certified providers and suppliers to be vaccinated." [Full Article](#)

*Cozen Holland & Knight*

## D.C.



### D.C. Enacts (Another) COVID-19 Emergency Leave Law

"D.C. Mayor Muriel Bowser signed into law the COVID Vaccination Leave Emergency Amendment Act of 2021 ("Emergency Act"), which requires employers to provide paid leave to employees and their children for time spent obtaining and, if needed, recovering from side effects of a COVID-19 vaccine, and unpaid leave for other COVID-19 related absences. The Emergency Act took effect on November 19, 2021 and is set to expire on February 3, 2022." [Full Article](#)

*Proskauer Rose*

## UTAH



### Utah Enacts Law Related to COVID-19 Vaccination and Testing Requirements in the Workplace

"On November 16, 2021, Governor Spencer J. Cox signed SB2004 into law, placing limitations and additional obligations on Utah employers that have implemented vaccine or testing requirements on employees. The law was passed in the Utah Legislature's second special session of 2021." [Full Article](#)

*Little Mendelson*

## WASHINGTON



### Washington State Continues to Mandate COVID-19 Vaccination for Certain Workers

"Following such states as California, Connecticut, Massachusetts, New Jersey, New York, and Oregon, Washington's Governor Jay Inslee has issued Proclamation 21-14.3 to require certain workers be fully vaccinated against COVID-19 and provide proof of such vaccination." [Full Article](#)

*Jackson Lewis*