

# IN THE KNOW

Bulletins for Benefits & HR Professionals



OCTOBER 19, 2021

## Telework and Modified Schedules Are Not Reasonable Accommodations If the Employee Cannot Perform Their Essential Functions

"In the context of the increase in telework during the pandemic and burgeoning requests from employees to continue telework as a reasonable accommodation, the U.S. Court of Appeals for the Tenth Circuit issued a case confirming the point that an accommodation, including telework or a modified schedule, is not reasonable if the employee is unable to perform the essential functions of their job."

[Full Article](#)

*Shawe Rosenthal*



## Court Finds Elevated Risk of COVID-19 Complications is Not a Covered Disability Under Federal Law

"On September 28, 2021, Venable LLP attorneys Brian Clark and Allison Gotfried secured for a client what could prove to be a far-reaching ruling on the issue of whether individuals with an underlying condition that places them at an "elevated risk of complications" from exposure to COVID-19, without more, are qualified as "disabled," entitling them to job accommodations under the Federal Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 (Rehabilitation Act)."

[Full Article](#)

*Venable*

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## The Employee Is Not Entitled to Their Preferred Accommodation – Only a Reasonable One

“A recent case is a good reminder to employers that, while the Americans with Disabilities Act requires employers to provide disabled employees with reasonable accommodations to enable them to perform their essential job functions or enjoy the privileges and benefits of employment, the choice of accommodation is the employer’s – not the employee’s.”

[Full Article](#)

*Shawe Rosenthal*



## Handling Requests for Religious Exemptions from Mandatory Vaccination Policies

“Employers implementing mandatory COVID-19 vaccine policies are facing an avalanche of requests for exemptions as religious accommodations, far more than for medical exemptions. Fortunately, while employers are generally obligated to explore accommodations for requests based on a sincerely held religious belief, they are not necessarily obligated to grant exemptions.”

[Full Article](#)

*Akerman*

## New Wellness Program Guidance Issued for COVID-19 Vaccine Premium Surcharges

“As the number of people receiving a COVID-19 vaccine has decreased, employers have tried to find ways to incentivize their employees to get vaccinated. While some employers have imposed COVID-19 vaccine requirements, others have searched for alternative methods to motivate employees to receive the vaccines. One method some employers have considered is

imposing a surcharge on health insurance premiums for employees and their dependents who are unvaccinated. The Department of Health and Human Services, the Department of Labor, and the Department of the Treasury issued guidance this week that addresses COVID-19 vaccine premium surcharges.”

[Full Article](#)

*Greensfelder*

## Practical Strategies for Manufacturers Managing COVID-19 Testing, Vaccine Mandates

“Manufacturing employers continue to feel the brunt of emerging and evolving trends related to the COVID-19 pandemic: workplace safety, labor shortages, absence management, remote technology, and employee retention — just to name a few. On the workplace safety front, mask mandates, testing protocols, and vaccine issues continue to make headlines, including President Joe Biden’s September 9, 2021, announcement regarding vaccine and testing requirements for companies with 100 or more employees.”

[Full Article](#)

*Jackson Lewis*

# State & International Compliance

## OHIO

### Ohio's Minimum Wage Set to Increase in 2022

"Ohio's minimum wage will increase to \$9.30 per hour for non-tipped employees and \$4.65 per hour for tipped employees, effective January 1, 2022. This new minimum wage will apply to employees of businesses with annual gross receipts of more than \$342,000 per year." [Full Article](#)

*Epstein Becker Green*

## TEXAS

### Texas Governor Issues Executive Order Limiting Employer Vaccine Mandates

"Executive Order GA-40 prohibits all entities from compelling any employee or consumer within the state of Texas to get a COVID-19 vaccine who objects because of (1) personal conscience; (2) religious belief; or (3) medical reasons, including prior recovery from COVID-19." [Full Article](#)

*Baker Hostetler*

## NEVADA

### New Nevada Law Requires Translation of Certain Financial Legal Documents

"A new Nevada law, effective October 1, 2021, makes it a deceptive practice to not provide translations for certain financial contracts, agreements and disclosures." [Full Article](#)

*McGuire Woods*

## CALIFORNIA

### California Enacts Massive Changes to Cal/OSHA's Enforcement Authority Over California Employers

"Senate Bill 606 ("SB 606"), which was signed into law on September 27, 2021, and will become effective on January 1, 2022, significantly expands the California Division of Occupational Safety and Health's ("Cal/OSHA") enforcement authority, and creates two new categories of violations." [Full Article](#)

*Hopkins Carley*

## NEW JERSEY

### New Jersey Expands Law Against Discrimination to Combat Age Discrimination

"On October 5, 2021, New Jersey Governor Phil Murphy signed into law new legislation that expands the scope of the New Jersey Law Against Discrimination (NJLAD) in order to combat age discrimination in the state." [Full Article](#)

*Greenbaum Rowe Smith & Davis*