

Employers Could Face Liability If They Require Employees to Receive COVID Vaccine

The new guidance from the U.S. Occupational Safety and Health Administration (OSHA) states that employers could be held liable if they mandate employees to take COVID-19 injections as a condition of employment and then they experience adverse reactions.

Under a frequently asked questions section of OSHA's website it states: "If you require your employees to be vaccinated as a condition of employment (i.e., for work-related reasons), then any adverse reaction to the COVID-19 vaccine is work-related. The adverse reaction is recordable if it is a new case under 29 CFR 1904.6 and meets one or more of the general recording criteria in 29 CFR 1904.7."

Recording requirements of serious work-related injuries and illness may leave employers with worker's compensation claims and impact their safety record.

To avoid potential liability, employers should not require employees to receive any COVID shot.

Some employers are now offering financial incentives, opportunities to win prizes or paid time off to receive the COVID shots. Employees who chose not to receive the "voluntary" injection and therefore miss an opportunity to receive a prize could argue they suffered "repercussions" for their choice. In addition, the "professional advancement" of an unvaccinated employee who is not permitted to work at a particular job site may be affected. However, OSHA's new guidance does not address these specific situations.

None of the COVID shots are approved or licensed by the FDA. They come under the emergency use authorization, which means they cannot be forced or required.

On March 27, 2020, the health and human services (HHS) secretary declared that circumstances exist justifying the authorization of emergency use (EUA) of drugs and biological products for COVID-19. That means people must be told the risks and benefits, and they have the right to decline a medication that is not fully licensed. The same section of the federal food, drug and cosmetic act that authorizes the FDA to grant EUA also requires the secretary of health and human services to “ensure that individuals to whom the product is administered are informed ... of the option to accept or refuse administration of the product.”

In addition to this federal law, the FDA includes the Nuremberg Code and the Helsinki Declaration on its website, emphasizing the fact that people cannot be forced to take experimental drugs without their full consent. Learn more at

Liberty Counsel founder and chairman Mat Staver said, “Forcing employees to receive one of these experimental COVID injections is a violation of federal law. The COVID injections are not licensed by the FDA and are still in the investigation and experimental phase. No employer or government may force or coerce anyone to take these injections. Federal law requires full informed consent. Employers that require employees to take a COVID shot may be held liable for adverse reactions and death.” {eo}

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