

## **Legislative Update FEBRUARY 2022\***

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### **OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION WITHDRAWS ITS RULE MANDATING COVID-19 VACCINATION OR TESTING ON JANUARY 25, 2022.**

On November 5, 2021, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) issued a COVID-19 Vaccination and Testing Emergency Temporary Standard (ETS) designed to require employers with 100 or more workers to ensure that their employees were either vaccinated against COVID-19 or else must undergo weekly testing.

The ETS was challenged in court, and on January 13, 2022 the United States Supreme Court issued a stay on implementation of the ETS pending further review of this issue by the United States Court of Appeals for the Sixth Circuit.

On January 25, 2022, OSHA withdrew the ETS. The withdrawal took effect on January 26, 2022.

Also on January 13, 2022, the United States Supreme Court upheld enforcement authority relating to the emergency regulation issued by the United States Department of Health and Human Services' Centers for Medicare & Medicaid Services (CMS) which requires workers in health care facilities that receive Medicaid or Medicare funding to be fully vaccinated against COVID-19 unless they qualify for a medical or religious exemption. The Supreme Court decided that this requirement was enforceable by CMS while lower appellate courts review pending legal actions.

Although OSHA withdrew the ETS as an enforceable emergency temporary standard, it did not withdraw the ETS as a proposed rule. OSHA has stated that it is prioritizing its resources to focus on finalizing a permanent COVID-19 Healthcare Standard.

In addition, OSHA has stated that it strongly encourages vaccination of workers against the continuing dangers posed by COVID-19 in the workplace.

As a result, employers who employ workers in facilities that receive Medicaid or Medicare funding must ensure that their employees are fully vaccinated against COVID-19 unless they qualify for a medical or religious exemption.

Source: OSHA

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