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Illinois Executive Order Institutes Mandatory Vaccination and Testing Program for Health Care Workers and Employers

On August 26, 2021, Illinois Gov. JB Pritzker issued COVID-19 Executive Order No. 87 (the Order) reinstating a statewide public mask mandate as well as introducing COVID-19 vaccination and testing requirements for health care workers, education workers (K-12 and higher education) and certain state facilities. This article focuses on obligations for health care workers and their employers.

Under the Order, health care workers must:

(1) Receive, at a minimum, the first dose of a two-dose COVID-19 vaccination series or a single-dose COVID-19 vaccine by September 5, 2021 (10 days after the Order was issued), and;

(2) Be fully vaccinated against COVID-19 within 30 days following the administration of the first dose in a two-dose vaccination series.

It is unclear whether health care workers who receive a two-dose vaccination series can satisfy the 30-day timeline because of the waiting period between the first and second vaccination dose and because it takes an additional two weeks after the second shot before an individual is fully vaccinated.

Heath care workers who do not meet the September 5, 2021, vaccination deadline, or who are not already fully vaccinated, must undergo the mandatory weekly COVID-19 testing. Covered Illinois employers may conduct on-site COVID-19 testing or require that health care workers provide proof of a negative test on a weekly basis.

Health care workers who are legally entitled to accommodations because of their disabilities or sincerely held religious beliefs are exempt from the requirement to be fully vaccinated under the Order. These health care workers, however, must undergo weekly COVID-19 testing.

To be exempt from the mandatory testing requirement, the Order requires that health care workers provide proof of vaccination to their employer. Under the Order, proof of vaccination must be one of the following:

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(1) A CDC COVID-19 vaccination record card or a photograph of the card;

(2) Documentation of vaccination from a health care provider or electronic health record; or

(3) State immunization records.

The Order contains little information about enforcement and penalties for violations. For example, the Order does not say whether an employer could face liability if it allowed a health care worker to work without having been vaccinated or completing the weekly testing. Nor does it specify what documentation, if any, an unvaccinated health care worker must have to prove compliance with the testing requirement. Employers subject to these requirements should closely monitor whether the governor or agencies such as the Illinois Department of Public Health, issue further guidance or regulations to clarify or implement the Order's requirements.

If you have questions about how the Order impacts your workplace or if you have question regarding how to comply with the Order, please contact Robert Driscoll, Brittany Lopez Naleid, Shannon West or your Reinhart attorney.

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