Healthcare Employers Can Mandate Vaccines, but Some Caution Necessary, Healthcare Risk Management, featuring Abbye Alexander, August 1, 2021

EXECUTIVE SUMMARY

Guidance from the Equal Employment Opportunity Commission indicates healthcare employers can require employees to receive a COVID-19 vaccine. These mandates come with some obligations and risks.

- A Texas court case supports mandatory vaccination programs at hospitals.
- A mandatory vaccination program must accommodate those who cannot receive the vaccine.
- Some employees are likely to resist vaccination and might pursue litigation.

When the COVID-19 vaccines were released, healthcare employers were uncertain if they could require staff to take the vaccine as a condition of employment. Legal experts said they could not because the FDA approved the vaccines under an emergency use authorization (EUA). Federal law specifically prohibits requiring employees to take such a vaccine.

Legislation is pending in many states to address the issue of mandatory employee vaccination programs, says **Abbye Alexander**, JD, partner with Kaufman Dolowich & Voluck in Orlando. The state-based pending legislation varies considerably, but most would prohibit mandatory vaccinations as a condition of employment where the employee maintains a religious-based or health-based objection to receiving the vaccination.

"These exceptions track with the current EEOC guidance on mandatory vaccinations in the workplace," Alexander says. "Only two states — Arkansas and Oregon — have passed legislation pertaining to mandatory employee vaccination."