

THE ADVISOR



MONTHLY COMPLIANCE COMMUNICATOR

Required Vaccinations: The Magic Number is 100. Or Is It?

On September 9, 2021, President Biden presented his plans to reduce the spread of COVID-19. Of interest to all, even outside of the healthcare setting, is the requirement for all employers with 100 or more employees to address vaccination status of their workforce. The announcement also included required changes to the conditions of participation for Medicare and Medicaid payments.

Of course, with such a significant announcement there are a lot of questions, some which can be answered and others which will not have answers until the new Emergency Temporary Standard (ETS) is published. According to recent reports the standard will be coming within weeks. Many reports are encouraging employees to begin to plan now as it seems the compliance date will follow quickly after the ETS is published.

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OSHA COMPLIANCE

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What We Know

- Initially this ETS will only impact states with a [Federal OSHA program](#). State run programs within a certain time will have to develop and implement a plan that is at least as effective as the Federal standard.
- This is the first time OSHA has used their authority to mandate vaccination.
- Employers who have 100 or more workers companywide will fall under this new standard. Employee count includes full-time, part-time, and temporary employees.
- Employers must ensure their workforce is fully vaccinated or require workers who are not vaccinated to produce a negative test at least on a weekly basis.
- Employers must also provide paid time off for vaccination administration or to recover if experiencing side effects of the vaccine.

Questions Remaining

- When will the standard be published and how shortly thereafter will compliance be required?
- Will employees be able to opt out of the vaccine and follow the testing requirements?
- Which exemptions will be recognized and what will the strategy be for protection of these workers?
- Who will be responsible for the cost of testing?
- Will there be more stringent requirements for healthcare facilities than for general industry or will OSHA leave those issues for HHS to cover under Medicare/Medicaid?



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OSHA COMPLIANCE

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Most practices have already broached the vaccination question. Earlier this year, CDC guidance allowed fully vaccinated workers to be in well-defined areas (breakroom, restrooms, locker rooms) of the facility where patients would not be present, without physical distancing or masking although current recommendations discourage this due to the high rates of community spread now being experienced. Additionally, the recently published [OSHA COVID-19 ETS](#) included full vaccination as an exemption requirement for well-defined hospital based ambulatory care practices. All healthcare settings should gather vaccination information even if you have fewer than 100 employees. Not only is this allowed, it is a safety measure to protect workers and patients.



But WAIT! There is more!

The president's direction included required COVID-19 vaccination of staff within all Medicare and Medicaid certified facilities which includes the following out-patient sites:

- Ambulatory Surgical Centers (ASCs),
- Comprehensive Outpatient Rehabilitation Facilities (CORFs)
- Federally Qualified Health Centers (FQHCs)
- Rural Health Clinics (RHCs)

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OSHA COMPLIANCE

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Many interpretations of this directive include, in addition to the centers listed above, any ambulatory practice that receive Medicare or Medicaid payments. These directives will not be covered by OSHA but by CMS. [CMS](#) stated in a news release that the directive will be published in October and will include a time for comment. If you are receiving payments from these sources, it will be important for someone in your practice to monitor the CMS website, as well as any state government (Medicaid) sites to ensure your practice understands changes in the conditions of participation.

TMC is closely monitoring the OSHA website for news regarding the publication of the next emergency standard and will post any new information on the [OSHA ETS + COVID-19 Resources](#) page on the TMC website. Please check our webpage frequently and look for more information and directions to come on OSHA's new requirements.

On a final note, please remember that influenza season is just around the corner and the need for flu vaccination is another important strategy for your workforce.

IT'S YOUR CALL

OSHA:

Recall the four most common ways to spread germs and decide how you should protect yourself.

HIPAA:

True or False:

If a practice has a website, a current copy of its HIPAA Notice of Privacy Practices must be available there.

**CLICK HERE
FOR ANSWERS**

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HIPAA COMPLIANCE



WEBSITE PRIVACY POLICIES AND HIPAA'S NOTICE OF PRIVACY PRACTICES

If you have spent any time on the internet, you have been asked about a website's cookies and what you want the website to do with them. A cookie saves certain information about you and your device through your web browser. It like a flag that allows a website to recognize and remember your device if you return to that site in the future. It can also keep track of your device over time.

Website owners are required to tell visitors what kind of cookies they use, how they are used and what information is collected by their website. There are additional legal requirements for websites that ask visitors to enter personal or financial information as well as requirements on how to treat information of minors under 13 years old. Websites typically have a privacy policy that outlines requirements like these which is usually available through a link at the bottom of the website. This kind of privacy policy applies to everyone who visits the website regardless of whether the visitor ever becomes a customer.

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HIPAA COMPLIANCE

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The Notice of Privacy Practices (NPP) that is required by HIPAA, serves a separate but similar purpose. A NPP applies only to the patients of a practice. It outlines a patient's privacy rights and how the practice uses, discloses, and secures the patients' protected health information (PHI). The NPP must contain certain information and be written in plain language. This means that it should be understood by those with basic reading skills. A patient must be provided a copy of the NPP prior to their first treatment, except in an emergency. A copy of the NPP must be provided to anyone who asks for it, and it must be posted in a prominent location inside the practice, like the waiting room.

If your practice has a website, the current NPP must be posted in a prominent location there, too. The Office for Civil Rights (OCR) provided a few examples of what a prominent location on a website might be in its 2016-2017 HIPAA Audits Industry Report.

- Through a drop-down menu on the home page.
- On the top or bottom of the home page as a direct link named "HIPAA Notice of Privacy Practices" or something similar, to avoid confusion with the website's general privacy policy.



In general, a patient should not need to click more than twice from a practice's home page to find the NPP. The OCR's report made it clear that the NPP and general website privacy policy should not be combined.

TMC clients can download a customizable sample HIPAA NPP and related forms like the patient acknowledgement of receipt of HIPAA NPP in the Client Portal.

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ENTER TO WIN

Cybersecurity Awareness Month

Help us celebrate cybersecurity awareness month by joining our contest! Answer the question below by clicking the "Enter Now" button and we will enter you in a chance to win a blue tooth speaker. We will announce the winner November 1st on social media and on our website.

Which of these are true about a phishing email?

- A** Emails from strangers that include attachments or links
- B** Spelling errors or broken sentences
- C** Suspicious emails that ask for personal data
- D** All of the above

ENTER NOW

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INSTRUCTIONS

Print and post newsletter in office for staff review. Each member should sign this form when completed. Keep on file as proof of training on these topics.

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