

Oregon Issues New Rule Requiring Vaccinations of Healthcare Workers by Mid-October

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Following on the heels of an executive order by Oregon's governor requiring full vaccination for teachers, staff and volunteers in K12 schools, the Oregon Health Authority yesterday issued [a new rule](#) requiring that healthcare providers and healthcare staff be vaccinated against COVID-19 as of October 18, 2021. Healthcare providers and healthcare staff mean individuals in a healthcare setting who have the potential for direct or indirect exposure to patients, residents or infectious materials. Healthcare setting includes a healthcare facility, whether inpatient or outpatient, and assisted living facilities.

On or before October 18, 2021, healthcare providers and healthcare staff must provide their employer with either proof of vaccination showing they are fully vaccinated (two doses of a two-dose vaccine or one dose of a single vaccine plus 14 days since the final dose) or documentation of medical or religious exception. Medical exception means an individual has a physical or mental impairment that prevents or limits the individual from receiving a COVID-19 vaccination. Religious exception means an individual has a sincerely held religious belief that prevents the individual from receiving a COVID-19 vaccination.

The new rule effectively removes lingering obstacles under Oregon law that, until now, had limited or prevented healthcare industry employers from requiring that all their employees be fully vaccinated.

A few open questions remain under the rule. Section 3(b) of the new rule states that an employer of a healthcare provider or healthcare staff may not "employ" a healthcare provider or staff at a healthcare setting unless they are fully vaccinated or have a documented medical or religious exception. Does the rule require the employer to terminate the employment of a non-compliant employee? Or is an employer allowed to place the non-compliant employee on leave until compliance is obtained or the vaccination rules are modified? Section 2(f) of the rule defines a medical exception as "a physical or mental impairment that prevents the individual from receiving a vaccination." But Section 4(b) defines documentation of a medical exception as a medical provider certification that an individual has a physical or mental impairment that limits (rather than prevents) the ability to receive a vaccination.

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