



Commercial Risk Advisor

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COVID-19 Vaccine Considerations

The prospect of a COVID-19 vaccine is exciting, but it also presents challenges for employers like you. Specifically, you may be considering whether vaccinations should be encouraged or mandated for your staff. The answer to this question depends on the unique aspects of your organization and its operations. And although there's currently no federal law that directly addresses this topic, it's vital to navigate the legal risks of mandating or encouraging your staff to receive the COVID-19 vaccine.

The Equal Employment Opportunity Commission (EEOC) and the Occupational Safety and Health Administration (OSHA) have both issued general guidance on existing vaccines (e.g., influenza) in the employment context in the past. Based on this guidance, here are some key points to consider when determining the best course of action for your organization.

OSHA Considerations

Per OSHA, employers can require employees to receive vaccinations for influenza, providing they properly inform employees of "the benefits of vaccinations." In addition, OSHA states that employees can refuse a vaccination due to a reasonable belief that they have an underlying medical condition that creates a real danger of serious illness or death, and that they "may be protected under [Section 11\(c\)](#) of the Occupational Health and Safety Act of 1970 pertaining to whistleblower rights."

EEOC Considerations

The EEOC states that under the [Americans with Disabilities Act](#), employees may be entitled to an exemption from a mandatory vaccine based on a disability that prevents them from getting vaccinated. This would be considered a reasonable accommodation, and the employer would be required to grant the exemption, unless it creates an [undue hardship](#) for the employer. The EEOC also states that, under Title VII of the Civil Rights Act of 1964, staff with sincerely held [religious beliefs](#) may be entitled to an exemption from a mandatory vaccination, which is considered a reasonable accommodation, unless it creates an undue hardship for the employer. These exemptions and the discrimination risk posed by mandating employees to receive any vaccine have led the EEOC to advise employers to simply encourage vaccination rather than mandating it.

In addition to the considerations above, it's best to consult legal counsel to determine whether there are unique risks to consider for your organization's industry or specific operations. For more COVID-19 updates and risk management resources, contact us today.

Insurance Carrier Recommendations

Insurance carriers play an active role in risk management, often assigning risk managers to inspect organizations' facilities and work areas. If any issues are found during these inspections, the insurance carrier may provide recommendations that the organization must follow in order to maintain coverage and avoid higher insurance premiums.

If your organization has an upcoming inspection in 2021, it's important to be prepared to receive and implement any of the insurance carrier's recommendations. Review this guidance to learn more about what insurance carrier recommendations are and how to handle them.

Insurance Carrier Recommendations Explained

Insurance carrier recommendations typically stem from an inspection from a risk manager, often referred to as a loss control inspection. These inspections may occur when a carrier writes a new policy or on a set schedule (e.g., once every three years).

After an inspection, insurance carriers will provide recommendations if they identify an unacceptable risk at your organization. These risks are often tied to a specific line of coverage. Recommendations are typically based on existing regulations from federal agencies (e.g., OSHA), local building and fire codes, and industry standards or best practices. Overall, these recommendations are designed to minimize your organization's risks and reduce the likelihood of a loss taking place.

How to Handle Recommendations

Knowing how to handle a recommendation ensures risks are identified and addressed in a timely manner. First and foremost, if you receive a recommendation, ensure it is based on accurate information and that it accounts for a legitimate issue. If you have any concerns related to a specific recommendation, consult your broker.

Next, make note of the timeline in which the carrier wants you to address issues detailed in a recommendation. Complete the recommendation as soon as possible and send required documentation (e.g., receipts, photos, contracts or other supporting documents) to the carrier. Keep in mind that some carriers will conduct follow-up visits to ensure recommendations have been addressed, while others will only require documentation.

The Consequences of Not Implementing Recommendations

Simply put, if you fail to implement a recommendation, your carrier may cancel the policy if it is within their rights—different states have different legislation on this topic. Even if the policy is not canceled, the carrier may refuse to renew the policy or increase your premiums. Don't take recommendations personally. Carriers are simply looking to minimize their risk. The more cooperative you can be, the smoother the process will go. Contact us today for more risk management guidance.

Although there can be some subjectivity to **insurance carrier recommendations**, they are largely based on existing standards, and **understanding the rules and regulations that apply to your business can go a long way** toward managing your risks.