

COMPLIANCE BULLETIN

BIDEN ANNOUNCES NEW VACCINATION EXECUTIVE ORDER

President Joe Biden took aim at vaccine resistance in America, announcing policies requiring most federal employees to get COVID-19 vaccinations and pushing large employers (100+) to have their workers inoculated or tested weekly.

The below article outlines more details on these items included in the orders:

1. OSHA is directed to issue Emergency Temporary Standard (ETS) requiring all employers with 100 or more employees to ensure that all employees are fully vaccinated or able to produce a negative COVID-19 test result on at least a weekly basis;
2. A new Executive Order requires certain government contractors to comply with guidance, to be published later this month by the Safer Federal Workforce Task Force (Task Force Guidance or Guidance), which presumably will require that employees who work on or in connection with certain government contracts be vaccinated, regardless of whether they work on a federal site;
3. The Centers for Medicare & Medicaid Services (CMS) will be taking action to require COVID-19 vaccination for workers in most health care settings that receive Medicare or Medicaid reimbursement as a condition of Medicare/Medicaid reimbursement (similar to what was previously announced by the President in August 2021 for nursing homes); and
4. OSHA is directed to require covered employers to provide paid time off for employees to get vaccinated or recover from vaccination.
5. The Plan calls on states to adopt vaccination requirements for all school employees as part of the effort to “keep schools safely open.”
6. The Plan indicates that the administration will increase the amount of COVID-19 testing by ramping up production of testing products, offering at-home rapid COVID-19 tests at cost through certain retailers, and expanding free testing at retail pharmacy sites, among other things.

Vaccinating the Unvaccinated

- **Requiring All Employers with 100+ Employees to Ensure their Workers are Vaccinated or Tested Weekly**

The Department of Labor’s Occupational Safety and Health Administration (OSHA) is developing a rule that will require all employers with 100 or more employees to ensure their workforce is fully vaccinated or require any workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work. OSHA will issue an Emergency Temporary Standard (ETS) to implement this requirement. This requirement will impact over 80 million workers in private sector businesses with 100+ employees.

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- **Requiring Vaccinations for all Federal Workers and for Millions of Contractors that Do Business with the Federal Government**

Building on the President's announcement in July to strengthen safety requirements for unvaccinated federal workers, the President has signed an Executive Order to take those actions a step further and require all federal executive branch workers to be vaccinated. The President also signed an Executive Order directing that this standard be extended to employees of contractors that do business with the federal government. As part of this effort, the Department of Defense, the Department of Veterans Affairs, the Indian Health Service, and the National Institute of Health will complete implementation of their previously announced vaccination requirements that cover 2.5 million people.

- **Requiring COVID-19 Vaccinations for Over 17 Million Health Care Workers at Medicare and Medicaid Participating Hospitals and Other Health Care Settings**

The Centers for Medicare & Medicaid Services (CMS) is taking action to require COVID-19 vaccinations for workers in most health care settings that receive Medicare or Medicaid reimbursement, including but not limited to hospitals, dialysis facilities, ambulatory surgical settings, and home health agencies. This action builds on the vaccination requirement for nursing facilities recently announced by CMS, and will apply to nursing home staff as well as staff in hospitals and other CMS-regulated settings, including clinical staff, individuals providing services under arrangements, volunteers, and staff who are not involved in direct patient, resident, or client care. These requirements will apply to approximately 50,000 providers and cover a majority of health care workers across the country. Some facilities and states have begun to adopt hospital staff or health care sector vaccination mandates. This action will create a consistent standard across the country while giving patients assurance of the vaccination status of those delivering care.

- **Calling on Large Entertainment Venues to Require Proof of Vaccination or Testing for Entry**

The President's plan calls on entertainment venues like sports arenas, large concert halls, and other venues where large groups of people gather to require that their patrons be vaccinated or show a negative test for entry.

- **Requiring Employers to Provide Paid Time Off to Get Vaccinated**

To continue efforts to ensure that no worker loses a dollar of pay because they get vaccinated, OSHA is developing a rule that will require employers with more than 100 employees to provide paid time off for the time it takes for workers to get vaccinated or to recover if they are under the weather post-vaccination. This requirement will be implemented through the ETS.

Further Protecting the Vaccinated

- **Providing Easy Access to Booster Shots for All Eligible Americans**

The Administration is preparing for boosters to start as early as the week of September 20th, subject to authorization

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or approval by the FDA and a recommendation from ACIP. Getting a booster will be easy. Booster shots will be free, and widely available across 80,000 locations – from pharmacies to doctors' offices to health centers.

- **Ensuring Americans Know Where to Get a Booster**

In the initial vaccine roll-out in December, many Americans were confused about available vaccination sites and supplies. But now, when the booster shots are approved, individuals will be able to find a vaccination site at [Vaccines.gov](https://www.vaccines.gov), including what vaccines are available at each site and, for many sites, what appointments are open. A toll-free number, 1-800-232-0233, will also be available in over 150 languages. Americans who have already utilized the text code 438829 or WhatsApp to get vaccine information will automatically receive a text with information on boosters, if and when recommended.

Keeping Schools Safely Open

- **Requiring Staff in Head Start Programs, Department of Defense Schools, and Bureau of Indian Education-Operated Schools to be Vaccinated**

To help ensure the safety of students, families, and their communities, the President's plan includes requirements that teachers and staff at Head Start and Early Head Start programs, teachers and child and youth program personnel at the Department of Defense (DOD), and teachers and staff at Bureau of Indian Education-operated schools get vaccinated. The Department of Health and Human Services (HHS) will initiate rulemaking to implement this policy for Head Start and Early Head Start programs, which provide comprehensive education and child development services to ensure that children are well prepared for kindergarten. The Department of Defense operates 160 K-12 schools for students from military families across the U.S. and abroad, and the Department of the Interior operates 53 schools through the Bureau of Indian Education (BIE) across the U.S. on and off tribal lands. These schools and programs collectively serve more than 1 million children each year and employ nearly 300,000 staff. This action will help more schools and early childhood centers safely remain open and give comfort to the many parents that rely on them every day to keep their children safe.

- **Calling on All States to Adopt Vaccine Requirements for All School Employees**

Scientific studies have shown that even one unvaccinated teacher can lead to dozens of sick school children. This is a completely avoidable outcome, and we can protect kids—especially those in elementary schools and early childhood education and child care centers where children are not yet eligible for the vaccine—by surrounding them with fully vaccinated adults as the first line of defense against COVID-19. In order to keep all children safely learning in school, the President's plan calls for Governors to require vaccinations for teachers and school staff. Currently, nine states, as well as the District of Columbia and Puerto Rico, have vaccination requirements for K-12 school staff, including California, Connecticut, Hawaii, Illinois, New Jersey, New Mexico, New York, Oregon, and Washington. Building on Administration policies to require vaccination among federal employees, including those serving children in DOD and BIE schools, the President is asking more states to join in requiring the vaccine for school employees to make sure we are keeping students safe.

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- **Providing Additional Funding to School Districts for Safe School Reopening, Including Backfilling Salaries and Other Funding Withheld by States for Implementing COVID Safety Measures**

The American Rescue Plan provides \$130 billion to states, school districts, and tribes to support the safe reopening of schools. The President has previously announced that, if a state cuts the funding to a local school district or the pay of a local education leader who is implementing CDC-recommended prevention strategies like universal masking, the school district may use ARP funds to fill those gaps. School districts can begin spending their ARP funds right away, including to reimburse for any allowable cost dating back to when the national emergency for COVID-19 was declared. In addition, through the President's plan, the Department of Education plans to make additional funding available—beyond the ARP dollars—to help local school districts fill gaps when funding has been withheld by their state for implementing COVID safety measures. Local school districts will be able to apply to the Department of Education in the coming weeks to restore funding withheld by state leaders—such as for school board members or superintendent salaries who have had their pay cut—when a school district implemented strategies to help prevent the spread of COVID-19 in schools

- **Using the Department of Education's Full Legal Authority to Protect Students' Access to In-Person Instruction**

President Biden has directed the Department of Education to assess all of its available tools to take action, as appropriate and consistent with applicable law, to ensure that state and local officials are giving all students the opportunity to safely participate in full-time, in-person learning. To date, the Department has launched investigations in five states that have prohibited mask mandates at schools: Iowa, Oklahoma, South Carolina, Tennessee, and Utah. These investigations will examine whether statewide mask mandate prohibitions discriminate against students with disabilities who are at heightened risk for severe illness from COVID-19 by preventing them from safely accessing in-person education.

- **Getting Students and School Staff Tested Regularly**

In April, HHS provided \$10 billion in funding for COVID-19 screening testing for teachers, staff, and students in K-12 schools. As schools return to in-person learning, the Administration is calling on all schools to set up regular testing in their schools for students, teachers, and staff consistent with CDC guidance. CDC currently recommends that screening testing should be offered to students who have not been fully vaccinated when community transmission is at moderate, substantial, or high levels; and screening testing should be offered to all teachers and staff who have not been fully vaccinated at any level of community transmission. In combination with promoting and providing access to vaccination to all eligible members of a school community, schools will better be able to remain open for in-person learning and maintain the health and safety of all students, staff, and families. HHS and the CDC will continue to provide assistance to schools to accelerate the establishment of screening testing programs in all schools.

- **Providing Every Resource to the FDA to Support Timely Review of Vaccines for Individuals Under the Age of 12**

President Biden's plan supports the independent scientific review of a vaccine for those individuals under the age of 12 and will provide the FDA with any needed resources to support its ongoing efforts to do this safely and as quickly as possible. The nation's public health officials will keep the public updated on the process so that parents can plan.

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Increasing Testing and Requiring Masking

- **Mobilizing Industry to Expand Easy-to-Use Testing Production**

President Biden's plan will mobilize industry due to the urgent and compelling need to accelerate the production of rapid COVID-19 tests, including at-home tests, and continue to ensure that manufacturers prioritize creating these products to prevent the spread of COVID-19 and its variants. Using authorities of the Defense Production Act and through the procurement of nearly \$2 billion in rapid point-of-care and over-the-counter at-home COVID tests—280 million tests in all—from multiple COVID-19 test manufacturers, the Administration will ensure a broad, sustained industrial capacity for COVID-19 test manufacturing. These tests will be available to support a range of needs, including long-term care facilities, community testing sites, critical infrastructure, shelters serving individuals experiencing homelessness, prisons and jails, and other vulnerable populations and congregate settings. Further, the action announced today will provide for tests for use by communities, adequate stockpiles, and the needed sustained production to be able to surge additional manufacturing, should we need it in the future.

- **Making At-Home Tests More Affordable**

To improve access to rapid tests for all consumers, top retailers that sell at-home, rapid COVID-19 tests—Walmart, Amazon, and Kroger—will offer to sell those tests at cost for the next three months. This means that Americans will be able to buy these tests at their local retailers or online for up to 35 percent less starting by the end of this week. The Administration has also taken action so that Medicaid must cover at-home tests for free for beneficiaries, and that states should ensure that any tools they use to manage at-home testing do not establish arbitrary barriers for people seeking care.

- **Sending Free Rapid, At-Home Tests to Food Banks and Community Health Centers**

To ensure that every American—no matter their income level—can access free, convenient, at-home tests, we will send 25 million free at-home rapid tests to 1,400 community health centers and hundreds of food banks.

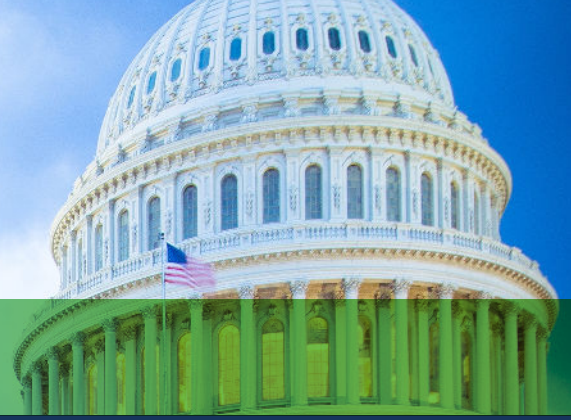
- **Expanding Free, Pharmacy Testing**

As part of our strategy to ensure the most convenient access to free testing, we will expand the number of retail pharmacy sites around the country where anyone can get tested for free through the HHS free testing program to 10,000 pharmacies.

- **Continuing to Require Masking for Interstate Travel and Double Fines**

President Biden's Executive Order, Promoting COVID-19 Safety in Domestic and International Travel, directed applicable agencies to take action to require mask-wearing in airports and on certain modes of public transportation, including on many airplanes, trains, maritime vessels, and intercity bus services. TSA has extended its implementing orders for air and ground travel through January 18th, 2022, and the President's plan will double fines for those who are not in compliance. The President's plan will also ensure that masking requirements remain in place on the other

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modes of transportation as we continue to battle COVID-19.

- **Continue to Require Masking on Federal Property**

President Biden's Executive Order, Protecting the Federal Workforce and Requiring Mask-Wearing, requires masks and specific physical distancing requirements in federal buildings, on federal lands, on military bases, and other overseas locations, consistent with CDC guidance. President Biden's plan will ensure that these requirements remain in place as we continue to battle COVID-19.

Protecting Our Economic Recovery

- **New Support for Small Businesses Impacted by COVID-19**

The President's plan will help more than 150,000 small businesses by strengthening the COVID Economic Injury Disaster Loan (EIDL) program, which provides long-term, low-cost loans. The improvements will allow more businesses to get greater and more flexible support from the \$150 billion in loanable funds still available in the program. First, the Small Business Administration (SBA) will increase the maximum amount of funding a small business can borrow through this program from \$500,000 to \$2 million, which can be used to hire and retain employees, purchase inventory and equipment, and pay off higher-interest debt. This increase will help small businesses: an SBA analysis of current COVID EIDL borrowers who qualify for the increase shows that more than 80% have 25 employees or less. SBA will ensure that no small business has to start repaying these loans until two years after they receive the funding, so small businesses can get through the pandemic without having to worry about making payments. Next, SBA will make it easier for small businesses with multiple locations in hard-hit sectors like restaurants, hotels, and gyms to access these loans. To ensure that taxpayer dollars are used to support businesses that truly need help, SBA has implemented tightened controls and will collaborate closely with the SBA Inspector General to monitor the program. And lastly, to ensure that Main Street businesses have additional time to access remaining funds, SBA will offer a 30-day exclusive window of access where only small businesses seeking loans of \$500,000 or less will receive awards after the new improved loan product launches.

- **Streamlining the Paycheck Protection Program (PPP) Loan Forgiveness Process**

Through the PPP, the SBA has made more than 11 million loans to small businesses that can be forgiven and taken off of their books if they use the funds to keep employees on payroll. In order to receive forgiveness, borrowers have to complete an application with their PPP lender. The President's plan will make it easier for more than 3.5 million PPP borrowers with loans of \$150,000 or less to get their loans wiped clean. Under the new streamlined approach, SBA sends a pre-completed application form to the borrower who can review, sign, and send back to SBA, which then works with the lender to complete the forgiveness process. Since launching this new process on August 4th, more than 820,000 small businesses have applied for forgiveness, with borrowers spending an average of 6 minutes on the application and 60% of applicants completing the process on their mobile phones. SBA expects more than 2.5 million additional small businesses to take advantage of this streamlined process in the months ahead, helping them avoid needless bureaucracy and avoid costly principal and interest payments on their loans.

- **Launching the Community Navigator Program to Connect Small Businesses to the Help They Need**

The ARP invested \$100 million to establish a new SBA Community Navigator program, which will deploy trusted

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community partners in underserved communities to better connect business owners to federal, state, and local resources. Community Navigators will work with small business owners every step of the way to ensure that they are able to access the help that they need. Under the President's plan, the SBA will complete the competitive review process to select Community Navigators and put them to work in underserved communities this Fall.

Improving Care for Those with COVID-19

- **Increasing Support for COVID-Burdened Hospitals**

The President's plan will provide additional support for hospitals facing capacity issues. The Department of Defense is announcing a commitment to double the number of DOD teams of clinicians deployed to support hospitals battling a surge in COVID-19 cases. These clinicians will be available for mission assignment through FEMA's response across surge states. Since the Administration launched the COVID-19 Surge Response Teams, nearly 1000 personnel have been deployed to states across the country to respond to the Delta variant, including more than 500 highly skilled health care professionals from across HHS' network of physicians, nurses, and other providers who are called up to respond to emergencies, FEMA's network of emergency medical services providers, and DOD's medical teams. These professionals have surged into COVID-19 ICUs and other acute care hospital settings to support and relieve overburdened local health care workers. In addition, the Department of Veterans Affairs has opened up over 150 hospital beds in Veterans Affairs' facilities across surge states in order to reduce the burden on local hospitals.

- **Getting Life-Saving Monoclonal Antibody Treatment to Those Who Need It**

The United States government shipped an average of approximately 100,000 doses of monoclonal antibodies per week across July and August. The Administration will increase the average weekly pace of shipments of free monoclonal antibody treatment to states by a further 50% in September, continuing to accelerate the federal government's efforts to deliver lifesaving COVID-19 treatment. Monoclonal antibody treatments have been shown to reduce the risk of hospitalization by up to 70% for unvaccinated people at risk of developing severe disease. As hospital systems experience increased COVID-19 cases, many have identified monoclonal antibody treatment as a key tool to improve health outcomes, prevent hospitalizations and reduce the strain on overburdened hospitals.

- **Expanding the Pool of Health Care Professionals Providing Treatment by Deploying Federal Monoclonal Antibody Strike Teams**

The COVID-19 Surge Response Teams have conducted in-person technical assistance and virtual training for physicians and health system officials to increase education and interest in administering these treatments. To ensure that more patients can access these lifesaving COVID-19 therapeutics, the Administration's COVID-19 surge response effort will launch monoclonal antibody strike teams to deploy clinical personnel through HHS, FEMA, and DOD to help hospitals and health systems stand up the delivery of this key treatment option. HHS will also take action to amend the Public Readiness and Emergency Preparedness (PREP) Act declaration to allow more providers, including pharmacists, to administer this treatment. These actions will ensure that more patients receive lifesaving treatments if they are infected or exposed to COVID-19.

Innovative Benefit Planning, LLC will be monitoring and releasing updates when they become available. If you have any questions, please contact your account team or email us at icomply@ibpllc.com.

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