

Florida's Latest Legislation in Wake of COVID-19: What Employers Need to Know

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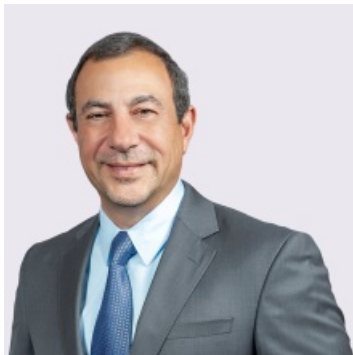
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New [Florida legislation](#) seeks to protect individuals from discrimination “based on health care choices” and bars COVID-19 mandates. The new law took effect on June 1, 2023.

The law’s restrictions on vaccine mandates and facial coverings also apply in educational settings, in addition to employers and businesses. Florida schools, both public and private, from preschool through college cannot mandate the COVID-19 vaccine, testing, or face masks or other facial coverings.

Employer Prohibitions

For Florida employers, the new law:

1. Prohibits business and governmental entities from requiring individuals to provide proof of vaccination or post-infection recovery from any disease to gain access to, entry upon, or service from such entities. Such proof has been commonly referred to as “vaccine passports.”
2. Prohibits employers from refusing employment to or discharging, disciplining, demoting, or otherwise discriminating against an individual solely on the basis of vaccination or immunity status.
3. With certain exceptions, prohibits businesses from mandating or requiring masks in order to gain entry to their facilities.

Therefore, employers in Florida cannot mandate the COVID-19 vaccine or any other vaccine under “emergency use authorization.”

Taking any adverse action based solely on knowledge or belief relating to an individual’s COVID-19 vaccination status or a failure to take a COVID-19 test will be deemed “discrimination on the basis of vaccination status” and violates the law.

Business Entities Prohibitions

The law defines “business entities” broadly and applies to any business operating in Florida. Business entities cannot require a person to wear a face mask, shield, or other face covering to enter their facilities. Business entities also cannot deny access to their facilities to a person who refuses to wear a face mask, shield, or other face covering.

Exceptions

The prohibitions on face coverings do not apply to healthcare providers or practitioners. These businesses will be subject to Department of Health guidelines on face coverings.

Additionally, business entities may require face masks or other facial coverings as safety equipment consistent with safety requirements and standards adopted by the Department of Health.

The Florida Department of Health and the Agency for Health Care Administration are required to jointly develop standards for “appropriate use of facial coverings for infection control” in healthcare facilities by July 1, 2023. Employers in the healthcare industry must then create and post standards that conform to this guidance by August 1, 2023.

What Should Florida Employers Do?

Employers in the healthcare industry should ensure that any masking policy or standard complies with the Department of Health’s guidance by August 1, 2023.

Although the new regulations would apply only to employers in Florida, all employers should remain apprised of the different vaccine regulations and requirements statewide and federally in the wake of the COVID-19 pandemic.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance under this Florida law and other state and federal legislation. If you have questions about this new law or other workplace law developments, please contact a Jackson Lewis attorney.

(Law clerk Nicholas Bonelli contributed to this article.)

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