The Private Duty Source
Issue: November 12, 2021

FEATURE ARTICLE

NAHC Webinar: OSHA COVID-19 Mandatory Vax and Testing Rules
- Tuesday, November 16, 2021
- 3:00pm-4:30pm ET

Vaccine and testing mandates are perhaps the most important public policy issue in the United States right now and health care employers are on the front line of this debate. Having the necessary knowledge and expertise about how to respond to the new rules is absolutely essential.

On November 5, 2021, both the Centers for Medicare & Medicaid Services (CMS) and the Occupational Safety and Health Administration (OSHA) issued rules that mandate COVID-19 vaccination and/or testing for all staff. In addition, healthcare providers are also subject to the requirements of the OSHA COVID 19 ETS that was issued on June 21, 2021.
The Fast-Paced World of Vaccine Mandate Rules

from our partners at Polsinelli

The Biden Administration issued a Vaccination and Testing Emergency Temporary Standard (ETS) on Thursday, November 4th, which the Fifth Circuit halted on Saturday, November 13th, the Administration also issued a rule for certain healthcare providers accepting Medicare and Medicaid funding and it pushed back the compliance date for federal contractors to comply with a third vaccination mandate. So where does that leave you? Glad you asked. Read on to learn more.

First, the much-anticipated Occupational Safety and Health Administration (OSHA) ETS for employers of 100 or more employees was published in the Federal Register on Friday. It requires covered employers to establish, implement, and enforce a written mandatory vaccination policy. Alternatively, it requires covered employers to establish, implement, and enforce a written policy allowing any employee not subject to a mandatory vaccination policy to choose either to be fully vaccinated against COVID-19 or provide proof of regular testing for COVID-19 and wear a face covering.

(NAHC will present an important new webinar, Unraveling the CMS and OSHA COVID-19 Mandatory Vaccination and Testing Requirements, on Tuesday, November 16. It is free to all NAHC members. Learn more and register now!)

The Fifth Circuit then issued a stay on Saturday, citing “grave statutory and constitutional” issues. Thus, for now, the pause button has been hit. The ultimate fate of the ETS, however, may depend on the federal appeals court that hears the merits of the legal challenge. I say this because lawsuits calling for the ETS to be scrapped have been filed in the Fifth, Sixth, Eighth, and Eleventh Circuits. As a result, there will be a lottery held to determine which court will hear a consolidated challenge to the ETS. The matter will then likely go to the Supreme Court.
National Association for Home Care & Hospice President William Dombi predicted a race to the finish on passage of legislation friendly to the home care industry by the end of the year.

During a webinar Wednesday, Dombi said NAHC is aggressively lobbying Congress to include a $3,000 annual tax credit for family caregivers in the reconciliation package that the House of Representatives is expected to vote on next week.

“"AARP and other strong consumer support is helping this along. We are working in concert and collaboration with them," Dombi said during the webinar. "It is a focus on the middle class. It is an effort to avoid the pauperization that can ultimately trigger Medicaid eligibility."

Biden Admin Issues Guidance to States on Required Medicaid and CHIP Coverage for COVID-19-Related Treatment

The Centers for Medicare & Medicaid Services (CMS) issued guidance to states about the statutory requirement for states to cover COVID-19-related treatment without cost-sharing in Medicaid and CHIP for many seniors, low-income adults, pregnant women, children, and people with disabilities who receive health coverage through these programs. This life-saving health care coverage, supported through the American Rescue Plan (ARP), includes care for conditions that could complicate the treatment of COVID-19 in patients who are presumed positive for the virus or have been diagnosed with COVID-19.

In addition to issuing Medicaid and CHIP guidance, CMS recognizes and applauds the efforts that many private issuers have taken to waive cost sharing for COVID-19-related treatment in the commercial market. Along with
today’s guidance, CMS encourages private health plans to continue to take steps to ensure consumers have coverage for treatment for COVID-19, including for long COVID, without cost barriers.

READ THE REST @ PD Home Care at NAHC

Our Veterans Deserve the Highest Quality Home Care and Hospice

Yesterday, November 11, the United States honored its veterans with Veterans Day, a national holiday. However, making sure our veterans receive the care and recognition they have earned should involve a lot more than a federal holiday in the second week of November. Those who have made great sacrifices deserve proper care when they come home, particularly if they suffer from debilitating health issues, whether in their senior years or earlier in their lives.

Among the common maladies afflicting our veterans are:

- Post-traumatic stress disorder
- Depression and other mental health issues
- Traumatic brain injury
- Musculoskeletal injuries and pain
- Infectious disease;
- Chemical exposure;
- Noise and vibration exposure/sensitivity.

READ THE REST @ PD Home Care at NAHC

NAHC’s Dombi: ‘Bumpy Road’ Ahead for OSHA, CMS Vaccine Mandates

The vaccine mandates from the Centers for Medicare & Medicaid Services (CMS) and the Occupational Safety and Health Administration (OSHA) have received mixed reactions from in-home care providers.
But the bottom line is that each will cause at least some employee movement, whether it’s forcing workers out of the health care sector completely or to another provider that’s held to lesser standards.

Vaccine Mandate Leaves Health-Care Providers Lamenting Omissions

The health-care community was digesting a sweeping vaccine mandate Thursday, praising its aim but bemoaning notable omissions in the directive that requires 17 million workers to be vaccinated against Covid-19 by Jan. 4.

Most of the nursing home industry’s recommendations for the new rule didn’t materialize. Most importantly, the mandate doesn’t allow unvaccinated workers to be regularly tested in order to remain on the job.

In addition, the interim final rule (RIN 0938-AU75) from the Centers for Medicare & Medicaid Services could also allow some workers in the home health industry who don’t want the jab to seek employment at other agencies that aren’t subject to the mandate. Some 500,000 workers in California alone could be exempt from the vaccine requirement, said William Dombi, president of the National Association for Home Care & Hospice.
“Healthcare at home has gained tremendous momentum in the last year, but we must keep moving forward. This includes positioning ourselves to succeed under the emerging value-based models with best practice research. By determining where and what resources should be used to achieve the highest clinical, operational and financial outcomes, we strengthen ourselves as an industry and also our ability to become a formidable partner within the healthcare continuum.”

– Brent Korte, Chief Home Care Officer, EvergreenHealth Home Care

We need your help! Take the pledge to move our industry forward by participating in the NAHC sponsored National Healthcare at Home Best Practices Study today. [Click here](#) to register.

READ THE REST @ PD Home Care at NAHC

RESOURCES

**The Human Experience 2020: Vision for the Future of Health Care** - The Beryl Institute

**Littler Operational Guidelines for the Home Care Industry Amid COVID 19** - Littler Mendelson, P.C.

Private Duty Home Care at NAHC is a fully integrated service line of the National Association for Home Care & Hospice focused on Leadership, Education, Advocacy, and Innovation exclusively for the private duty home care community.
Email Admin Center
This newsletter is a service of the Private Duty Home Care at NAHC. Should you no longer wish to receive these messages please reply to this message with the subject line "Unsubscribe".

Private Duty Home Care at NAHC
228 Seventh Street, SE
Washington, DC 20003
phone: (202) 547-7424