Who Calls The Shots?
What You Need to Know About Vaccines

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Pro Bono Partnership provides free transactional legal services to nonprofit organizations whose programs or activities benefit low-income communities or otherwise serve the public interest, and which cannot afford to hire an attorney.
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COVID-19 Resources:
https://www.probonopartner.org/covid-19-resources/

• UPCOMING WEBINARS:
  • Tuesday, May 11th – Effective & Efficient Boards and Board Meetings at 12:00 pm
  • Wednesday, May 12th – Effective & Efficient Boards and Board Meetings at 6:00 pm
  • Wednesday, May 26th – Rules to Live By: The Importance of a Nonprofit’s Bylaws at 12:00 pm

To Register: www.probonopartner.org/learning-center
Disclaimer

This presentation is not and should not be construed as legal advice nor does this presentation create an attorney-client relationship between you, your organization, the presenter or the Pro Bono Partnership. The content of this presentation is for informational purposes only. If you have specific questions about the practices of your organization, you should contact an attorney for advice.
Disclaimer

The material presented today is based on our best understanding at the time of the presentation.

Information on COVID-19 vaccinations is changing by the day. This means that you should check to make sure that the information presented today is still accurate should you refer to it in the future.

This presentation DOES NOT cover all of the considerations regarding COVID-19 vaccinations. You should not consider this presentation or power point a full analysis of or reference for all of the issues to be considered related to COVID-19 vaccinations.
COVID Vaccines
COVID Vaccines

• Can an employer require that an employee get a COVID vaccine?
  • Generally, yes.
    • Job related, essential, non-discriminatory.
    • Need to consider disability and religious accommodations, which might support a refusal by an employee to get the vaccine.
    • Need to consider availability of the vaccine.
    • Need to consider effect on workplace. What if someone refuses?
    • Need to consider emergency use of the vaccine.
  • See PBP’s COVID page for EEOC guidance and NJ guidance
COVID Vaccines

• Can an employer incentivize an employee to get a COVID vaccine?
  • Generally, yes.
  • Employers can educate employees about the vaccine.
  • Some employers are also providing additional time off, or small incentives to encourage employees to get the COVID vaccine. But, be careful about tax implications, HIPAA and equity issues.
COVID Vaccines

• How does an employer manage a workforce that may be a mix of vaccinated and unvaccinated employees?
  • As of today, all people over the age of 16 in the United States are eligible to receive a vaccine. However, the amount of time someone needs to wait to get an appointment for the vaccine varies in different parts of the country, and there may be some people who will not or cannot take the vaccine.
  • Thus, employers will need to continue to follow federal, state and local laws related to COVID protocols, such as masking, social distancing, travel restrictions, capacity limitations, cleaning protocols, etc.
COVID Vaccines

- Do employers need to provide time off for an employee to get vaccinated? What if someone is not feeling well after the vaccination?
  - If the employer has opted into the FFCRA, paid time off is provided for the time it takes to get the vaccine and to recover from any side effects of the vaccine.
  - New York State requires employers to pay employee up to 4 hours of time per shot to get the vaccine.
  - May be time off available under NJ, NY, CT paid sick leave laws or local paid sick leave laws.
COVID Vaccines

- Can an employer ask an employee if they have taken the COVID vaccine? Can they require proof?
  - Yes, an employer can ask an employee to show evidence that they have received the COVID vaccine.
  - But, if an employee answers no, then an employer should not inquire into why not.
  - Any written information collected related to the vaccine needs to be kept confidential.
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