

LEGAL UPDATES

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Federal Assistance in Vaccine Administration May be on the Way

On January 21, 2021, the Biden Administration released its National Strategy for the COVID-19 Response and Pandemic Preparedness (the “National Strategy”). To meet the President’s goal of 150 million doses to be given in the first 100 days of his administration, the National Strategy aims to increase coordination with and support for state and local governmental entities in all stages of vaccine distribution, from manufacturing to vaccine administration, some of which are described below. State and local governmental entities, as well as private industry employers and collaborators, should remain informed of changes to the vaccination effort as more of the workforce becomes eligible for vaccinations and as more support comes from the federal government.

Data coordination between federal and state and local entities

Beyond ordering more doses of the vaccine and monitoring the manufacturing process, the federal government wants to improve the flow of communication to state and local governments. To strengthen the allocation process and coordinate the logistics for federal distribution of the vaccines, the federal government will provide regular projections of the allocations that states and localities will receive. This has the potential to help combat the unpredictability of vaccine shipments and assist with planning at all levels of vaccine administration, as such projections have not been routinely or reliably provided to state and local officials.

Federally created vaccination venues

The federal government is also seeking to establish federally-supported vaccination centers across the country, with the assistance of the Department of Defense (DOD), Federal Emergency Management Agency (FEMA), the Department of Veteran Affairs (VA), the Public Health Service Commission, the National Guard, and state, local, and tribal teams. By the end of February,

the federal government intends on having 100 of these sites in operation. According to a draft document for these sites, the largest venue would be able to administer 6,000 doses per day, with smaller venues handling 250 doses per day. States and localities have shouldered the undertaking of vaccine administration since the coronavirus vaccines have become available, but the federal mass vaccination centers have the potential to alleviate administrative hurdles that local public health departments face in moving to later phases of the vaccine rollout beyond healthcare professionals and long-term care facility staff and residents.

Additionally, in order to bolster state and local community vaccination clinics and vaccine administration, the federal government plans to provide support for construction and management of sites, including the use of federal land and buildings and Army and Navy Medical Corps staff to support Medical Reserve Corps in the vaccination effort. In a similar vein, the National Strategy seeks to ensure that Federally Qualified Health Centers (FQHCs) can directly access vaccine supply where needed.

“Surge” the health care workforce

One problem that many states and localities face is that they lack the amount of staff needed to administer the vaccines at a rapid rate. In an effort to get as many people on the ground administering the vaccine, the federal government hopes to “surge” the health care workforce. First, federal staff, contractors, and volunteers would be deployed to support state and local vaccination efforts. This could include use of the US Public Service Commissioned Corps to provide clinical training and the assistance of nurses, physicians, and pharmacists from the VA and DOD.

The federal government is continuing to support states’ use of the National Guard in COVID-19-related tasks. President Biden signed a Memorandum on January 21, 2021 extending the federal government’s support of state deployment of the National Guard to assist with efforts to combat COVID-19, including full reimbursement for the use of National Guard forces to combat COVID-19 through FEMA.

Furthermore, the federal government seeks to expand the number of those who are deemed qualified to administer the vaccine. One way it plans to do this is by amending the Public Readiness and Emergency Preparedness Act (the “PREP Act”) to permit certain qualified professionals not licensed under state law to administer vaccines. The federal government is now also encouraging states to take all available actions to “surge” the vaccine administration workforce by making changes, such as allowing for rapid pre-licensure to health care professionals; granting temporary vaccination licenses for clinical students and foreign-educated healthcare professionals; and expanding the scope of practice for non-physician health practitioners including physician assistants, pharmacists, and registered nurses.

The bottom line

While many of these plans will require funding from Congress, the Biden Administration wants to leverage federal resources to assist states and localities in vaccine administration. In their vaccination efforts, states and localities can expect more of a collaborative effort with the federal government moving forward.

With the possible surge of such support from the federal government, combined with many state and local governments moving into phases beyond vaccinating healthcare professionals and long-term care facility staff and residents, private entities—especially those that employ “essential workers”—need to remain informed about when and how their employees can receive a vaccine. Husch Blackwell’s State by State and Federal Daily Updates detail each state’s vaccine distribution plans and whether any changes have been made. Husch Blackwell is available to assist with the preparation of information at the state and local level to ensure that our clients’ employees are able to get vaccinated as soon as they are eligible.

Additionally, state and local governments and tribal entities, including public health departments, should remain informed about potential collaborations with the federal government, the National Guard, and private companies, and should start thinking of ways in which to increase vaccine administration given the recent signal of support from the federal government.

Finally, companies engaged in healthcare should also keep an eye on Husch Blackwell’s State by State and Federal Daily Updates to determine whether the licensure requirements for vaccine administrators in their state have been temporarily changed and whether their states are changing distribution plans to fit with newly-released federal guidance on various phases and populations.

Contact us

If you have any further questions or require more information regarding this alert, contact Allee Barton, Lowell Pearson, Natalie Holden or your Husch Blackwell attorney.

CARES Act, COVID-19 & Return-to-Work Guidance

Husch Blackwell provides guidance regarding COVID-19 updates, the CARES Act, and rapidly changing state-by-state orders, including those that impact stay-at-home and return-to-work protocols. Contact these legal teams or your Husch Blackwell attorney to plan a way through and beyond the pandemic.