

## Vaccine Mandates Could Impact Costs, Conditions for Employment Practices Liability (EPLI) Policies

In the past year, businesses have taken a variety of approaches to COVID-19 vaccination policies ranging anywhere from absolute mandates to incentive programs designed to encourage vaccination among employees.

Although the U.S. Department of Labor Occupational Safety and Health Administration's (OSHA) attempt to place a vaccine-or-test mandate on private employers with 100 or more employees did not survive Supreme Court review, employers are generally able to implement such a plan.

The U.S. Equal Employment Opportunity Commission has acknowledged that "federal EEO laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19."

Employers, however, should be mindful of state and local laws that may prohibit vaccination mandates, as well as their obligations under federal and state law to accommodate employees' reasonable religious or medical accommodation needs.

As employers try to keep up with their obligations and changes in federal and state law, some litigation seems unavoidable. Even when employers obey the letter of the law, it doesn't preclude employees from filing suit. Employers can be prepared by anticipating the most likely claims and limiting their exposure in those areas.

### CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

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## Areas for Claims Exposure

Thanks to health and safety mandates, there is likely limited exposure with respect to claims concerning an employer's authority to implement a mandatory vaccination policy. An employer has an obligation to maintain a safe workplace amidst the pandemic, and courts have upheld employment policies which mandate vaccination.

Lawsuits with respect to employers' enforcement of their vaccination policies (such as allegedly failing to accommodate a religious belief or medical condition), however, are expected to increase. These claims could

potentially increase EPL premium rates and exposure calculations, and some insurers may decide to impose restrictions on COVID-related claims.

To limit exposure, employers will want to regularly document their communications with employees. Employers must also be ready for religious and medical accommodation requests and ensure their supervisors and managers understand employer responsibilities under Title VII of the Civil Rights Act, the Americans with Disabilities Act and/or any applicable state laws.

## Takeaway

As we continue to see variants of COVID-19, whether to mandate vaccinations in the workplace will be an ongoing challenge for employers.

Retail agents and brokers should check in with their insureds to make sure they have processes in place to mitigate exposures and an EPL policy that protects them in the event of claims or litigation. Contact your Amwins professional lines broker today for help understanding the nuances of vaccine-related risks and guidance placing the right policies.

### About the Author

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