

## No More COVID-19 Vaccination Mandates in Texas

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Private employers in Texas cannot require applicants, contractors, or employees to be vaccinated against COVID-19. See Tex. Health and Safety Code, [Ch. 81D, Sec. 81D.002](#), which went into effect February 6, 2024. In addition to prohibiting employers from requiring the vaccine, employers cannot take adverse action based on an individual being un-vaccinated against COVID-19.

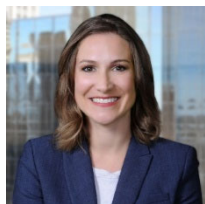
Employers violating the prohibitions may face a \$50,000.00 penalty, and the Texas Attorney General may pursue an injunction to stop any future violation. The law provides an option to avoid the penalty (but not the investigation costs) if the employer acts to alleviate the adverse consequences of whatever action the employer took to violate the law.

There is no exception to the prohibition for employers in the healthcare industry; however, in some circumstances, healthcare employers can establish a reasonable policy that requires unvaccinated employees or contractors to use “protective medical equipment” based on an assessment of risk to patients. See *id.*, Sec. 81D0035. Notably, this limited exception suggests that, under a broad reading of the prohibition, imposing similar requirements of using “protective medical equipment” on unvaccinated employees or contractors not in the healthcare industry may be considered an “adverse action.”

Employers should act now:

- To ensure that handbooks and policies are updated to reflect the new law.
- To review staffing contracts or service contracts to ensure compliance with the new law.
- To review any adverse action decisions since February 6, 2024 with legal counsel to determine if mitigation of negative consequences should occur.
- To evaluate health and safety policies to ensure a safe workplace regardless of the vaccination status of employees or contractors.
- Consult with legal counsel to ensure risks are appropriately balanced before relying on the healthcare exception.

For information regarding GableGotwals Employment & Labor practice, [click here](#).



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