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# Chicago's Vaccine Anti-Retaliation Ordinance – What Employers Need to Know

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Practice Area: Labor and Employment

On April 21, the Chicago City Council ("City Council") passed the Vaccine Anti-Retaliation Ordinance (the "Ordinance") establishing protections for Chicago workers who take time off of work to receive the COVID-19 vaccine. The Ordinance broadly applies to individuals, including independent contractors, who perform work in the City of Chicago. It is effective immediately and remains in effect until further notice.

**Overview of the Ordinance**
Under the Ordinance, employers must allow workers to take time off to obtain the COVID-19 vaccine without retaliation against them in their terms and conditions of employment—whether the worker voluntarily chooses to get vaccinated or whether vaccination is mandated by the employer. Workers may either choose to take time off to receive the vaccine, or to do so outside of work. However, the Employer may not force employees to receive the vaccine outside of work if the employee opts to get the vaccine during working time.

Unless the employer mandates the vaccine, employers do not need to pay employees for the time off. However, employers must allow workers to use any accrued paid time off ("PTO") for unpaid time required to receive the vaccine. Please note, it is at the option of the employee whether or not to use PTO to receive the vaccine: An employer cannot force the use of accrued PTO.

If an employer mandates the vaccine, the employer must pay the employee for the time spent getting vaccinated, if the vaccine appointment is during a shift, at their regular rate of pay, capped at four hours per vaccine dose. Employers that mandate COVID-19 vaccinations cannot require workers to use accrued paid time off as an alternative to compensating workers in accordance with the Ordinance.

**Enforcement and Penalties for Violations**
The Chicago Office of Labor Standards will enforce the Ordinance. Employers found to violate the Ordinance are subject to fines that may range from $1,000 to $5,000 per violation.

Individuals may also sue in court for remedies including reinstatement and triple damages.

**Practical Considerations for Employers**
At present, neither the Ordinance nor any accompanying guidance addresses what documentation, if any, may be required from a worker to verify the need for leave under the Ordinance. The Ordinance is also silent as to whether a covered worker is entitled to additional protected leave—or whether an employer may require the worker to use accrued PTO—in the event the worker is temporarily unable to return to work due to adverse effects/symptoms experienced as a result of receiving the vaccine. We anticipate that additional guidance for employers will be issued addressing questions left unanswered by the current language of the Ordinance.

We suggest that employers consider the following to maximize compliance and reduce legal risk:

1. Update COVID-19 leave policies to reflect the requirements of the Ordinance;
2. Train supervisors and managers on the requirements of the Ordinance;
3. Communicate updated vaccine leave policies with employees;
4. Determine whether vaccine mandation is appropriate for the business, consistent with state and federal labor and employment laws;
5. Establish policies for the documentation of the need for leave, consistent with other state and federal anti-discrimination and confidentiality laws.

As always, individual applications of the Ordinance will depend on the facts of each case. With significant legal exposure at play for violations, employers are encouraged to contact their legal counsel before taking any adverse action.

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