

Puerto Rico Expands Mandatory COVID-19 Vaccination to Private Employers With at Least 50 Employees

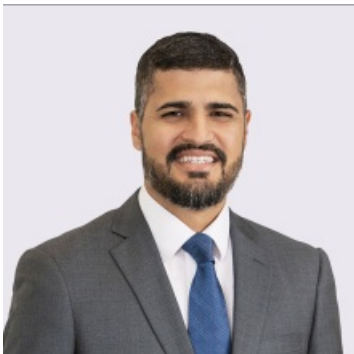
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November 16, 2021

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Puerto Rico Governor Pedro R. Pierluisi has issued an Executive Order (EO) requiring all private sector employers with at least 50 employees to adopt COVID-19 vaccine or testing requirements.

Under EO 2021-075, which is similar in scope to the recent [Occupational Safety and Health Administration \(OSHA\) Emergency Temporary Standard](#), such employers must require their employees to provide:

- Proof of COVID-19 vaccination;
- A negative test result at least every seven days; or
- Certified proof of recovery within the last three months from COVID-19.

Although the EO went into effect immediately, covered employees will have 45 days, or until December 30, 2021, to complete their vaccination cycles and submit proof of vaccination to their employers.

The EO also consolidates into a single document the requirements imposed by [past executive orders](#). Requirements such as verification of vaccination status for visitors of certain industries, including restaurants, beauty salons, barber shops, aesthetics salons, spas, gyms, casinos, theaters, and other establishments in the dining and entertainment industries, remain in place.

The EO provides that private sector employers with fewer than 50 employees are not required to comply “for now.” However, the EO says these employers are “urged” to take measures such as requiring proof of vaccinations or proof of results.

Proof of Vaccination

Similar to [prior executive orders](#), employers must corroborate vaccination by inspecting the immunization certificate (COVID-19 Vaccination Record Card or Vacu ID) or a document establishing the employee has completed or begun the vaccination process. Employees must submit proof of vaccination in order to be allowed into the work area.

Employees who work for employers with at least 50 employees must provide proof that, by November 30, 2021, they have initiated the vaccination process. They must then certify to the employer that they have received the second dose of the vaccine, if the type of vaccine that was administered requires it. Employees will have until December 30, 2021, to complete the vaccination process.

Employees who do not provide proof of vaccination and who are not vaccinated must submit a COVID-19 negative test result at least every seven days or a positive COVID-19 result within the last three months and proof of recovery.

Employees who fail to comply with the mandatory vaccination requirements or provide the required results will not be allowed to be physically present in the work area. For such an employee, the employer can implement applicable pertinent measures, including allowing the employee to use relevant leave of absence or unpaid leave, if applicable.

The EO urges employers to permit employees to get vaccinated during working hours and permit the use of sick leave to recover from secondary effects, if any.

The term “employee” is to be interpreted liberally to include any person who physically works in a location, except suppliers. The term includes persons who provide services on a voluntary basis.

Exemptions

The EO eliminates the religious and medical exemptions provided in [prior executive orders](#). Further, employees who are not vaccinated (for any reason) must present a negative COVID-19 test results at least every seven days or submit certified proof of recovery within the last three months from COVID-19. Prior executive orders required test results the first day of the work week.

Violations

Failure to comply with the EO may result in fines of up to \$5,000, six months in jail, or both, at the discretion of a court.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

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