



GARFUNKEL WILD, P.C.  
ATTORNEYS AT LAW

# Handling COVID-19 Employee Vaccinations, Updated Leave Entitlements & Addressing Violations of COVID-19 Protocols

January 26, 2021

Presented by: Lauren Levine, Partner  
Marianne Monroy, Partner  
Salvatore Puccio, Partner

Great Neck, NY  
516.393.2200

Hackensack, NJ  
201.883.1030

Stamford, CT  
203.316.0483

Albany, NY  
518.242.7582

[www.garfunkelwild.com](http://www.garfunkelwild.com)

© 2021 GARFUNKEL WILD, P.C.

# TODAY'S AGENDA

---

- INTRODUCTION
- ROUND TABLE DISCUSSION, WITH QUESTIONS AND ANSWERS
- TOPICS FOR TODAY:
  - Employees And the COVID Vaccine
  - Internal Considerations For Vaccine Policies
  - Updates To Recent Covid-19 Paid Sick Leave Laws
  - Addressing Employee Discipline Issues

# MANDATORY OR VOLUNTARY VACCINE PROGRAMS

---

- Mandating A Vaccine Policy For Your Staff.
- ADA & Accommodation Considerations:
  - Religion and Accommodations Under The ADA.
  - Vaccine Prescreening Questions
- Voluntary Programs.
  - Incentives For Participation
- Confidentiality and HIPAA Considerations.
- Affect of Vaccine on:
  - Travel and Close Contact Quarantines
  - PPE and Mask Policies
  - General Office Policy For Return to Work
  - Workers' Compensation Implications

# POTENTIAL SCENARIO

---

- What do we do with the front-facing employee who has been working in your office or community since you reopened in mask or PPE, and now refuses the vaccine?
- What accommodation may be reasonable?
- How is it now not permissible for that employee to continue greeting customers/patients or treating patients, without a vaccine, but wearing a mask and following other safety protocols?

# VACCINE PROTOCOL CONSIDERATIONS

---

- Symptoms of Vaccine v. Symptoms of COVID.
- Vaccine Scheduling (If You Can Have a Preference).
- Setting Unrealistic Deadlines.
- Costs For Time Spent Receiving Vaccine When Mandated.
- Waiver/Release v. Disclosures/Acknowledgement.
- Policies For Vaccine By Job Description.

# UPDATES TO COVID-19 LEAVE LAWS & POLICIES

---

- Families First Coronavirus Response Act Updates
  - Mandatory Paid Sick Leave and Extended Family Leave Ended on December 31, 2020.
  - Federal Government Allows Employers To Continue Providing Paid Sick Leave and Paid Extended Family Leave And Allowance For Federal Tax Credit Through March 31, 2021.
  - Expectation Is That New Legislation May Reinstate Mandatory Requirements.
- Still Providing Paid Sick Leave Mandated By State Or County.
- Updates On Quarantine And Travel.

# HYPOTHETICAL

---

- It's February 1, 2021 and employee is in close contact with positive covid-19 case.
- How Long Must They Quarantine?
  - CDC – 10 days with no symptoms or 7 days with negative test.
  - NY, NJ, and CT all have scenarios to reduce from 14 days to 10 days with continued monitoring days 11-14, together with following guidelines. NJ limitation based on zones and risk factors.
- Answer May Also Depend On Field Of Work and Employee Classification.
  - If Essential Work In Health Care Field:
    - May return to work with employer's permission, no symptoms, and meet rigorous practice of social distancing, PPE, mask use at all times, checking temperature and monitor symptoms daily and throughout the day, etc. May be State specific.
- What if employee actually tests positive?
  - Isolate at Home (or other home-like setting) for at least 10 days after illness onset and at least 3 days (72 hours) fever free without medications. (NJ is 1 day fever free without medication).

# HYPOTHETICAL CONTINUED: TRAVEL

---

- What about employees traveling?

- All non-essential travel is discouraged.

- Follow State Specific Guidelines:

- New York: 10-day Quarantine, But Travelers Can “Test Out” By Testing Negative Within 3 days Prior to Travel To New York And Second Negative Test On Day 4 Of Quarantine. Exceptions: NJ, CT, VT, MA, PA.
- New Jersey: Travelers/Residents Returning Should Self-Quarantine, Consider Getting Tested 1-3 Days Before Trip and 3-5 Days After Trip, Voluntary Disclosure For All. Even If Negative, Recommended 7 Day Quarantine After Travel. Exceptions: NY, PA, CT, DE.
- Connecticut: Directed To Quarantine For 10 Days From Arrival. Travelers Can Test Out With Negative Test Result Within 72 Hours Of Arrival To CT. Exceptions: NY, NJ, RI.



# HYPOTHETICAL CONTINUED: LEAVE PAY

---

- Is the employee entitled to paid sick leave?
- Not under the FFCRA presently. But, it's permitted.
- Check State laws.
  - Under New York, still have to consider Emergency Sick Leave for Covid.
  - In New York, also consider new State sick leave law, as well as City and County laws.
  - In New Jersey, look to Earned Sick Leave, Temporary Disability and Family Leave Insurance options.
  - Connecticut Paid Sick Leave Law
- Health Care Provider Distinction In New York:
  - HCPs eligible for up to 3 paid sick leave entitlements, with positive test results.

# EMPLOYEE DISCIPLINE AND COVID 19

---

- First Objective: Review or Set Out Clear Policies:
  - Wearing a mask or PPE, reporting symptoms, social distancing, travel
- Review each situation independently, but remember that once you create a policy or protocol for discipline to apply it equally.
- Be Prepared For Challenges From Employees.
- Document Communications.
- Ensure Your Paid Leave Payments Are Up to Date and Correct.
- Discipline Is Made Difficult By Privacy Issues.
- It's Possible, But Comes With Risks.



---

**QUESTIONS?**

# CONTACT INFORMATION

---

Salvatore Puccio  
spuccio@garfunkelwild.com  
(516) 393-2583

Lauren Levine, Esq.  
llevine@garfunkelwild.com  
(516) 393-2240

Andrew Zwerling  
azwerling@garfunkelwild.com  
(516) 393-2581

Marianne Monroy, Esq.  
mmonroy@garfunkelwild.com  
(516) 393-2212c