



# Attorney General Doug Peterson

# News Release

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## **Attorney General Peterson's Response to Nebraskans' Concerns about Federal Vaccine Mandates**

***Attorney General plans to carefully review mandates that have yet to be issued or take effect for possible legal challenge***

In the last several weeks, the Attorney General's Office has received a number of phone calls asking about the federal vaccine mandates announced by the Biden administration. Nebraskans want to know whether these federal mandates are enforceable. This is understandable since many Nebraskans are facing the loss of their livelihood and are exploring ways to maintain employment without being required to take one of the vaccines.

It is also understandable that many Nebraska employers and employees are confused as to the status of these mandates. Although the Biden administration announced them well over a month ago, most of these rules have yet to be released, and the guidelines that are available have yet to take effect. The Attorney General is concerned that some or all of these federal mandates could be unlawful. He and his staff plan to carefully review them as they become available and will be prepared to take appropriate legal action.

The Biden administration has announced that it will mandate vaccines using three different methods. First, the Department of Labor will issue an emergency temporary standard under the Occupational Safety and Health Act requiring businesses with 100 or more employees to require their employees to either get vaccinated or face regular COVID-19 testing. This emergency standard has yet to be released. Many states, including Nebraska, have publicly announced that they will carefully review this new Occupational Safety and Health Administration (OSHA) rule as soon as it is released and evaluate whether it exceeds its

constitutional or statutory authority. If a lawsuit is filed, states will likely seek an immediate order to stop the OSHA rule from going into effect and prevent major workforce interruptions until the administration's legal authority is clarified.

Second, the federal government has indicated it will require most healthcare facilities that receive Medicaid or Medicare reimbursement to vaccinate all their employees. Unlike the OSHA rule, this mandate is not expected to include the option for regular testing instead of vaccination. This healthcare mandate is concerning because states like Nebraska are already experiencing a shortage of healthcare workers, and hospitals and nursing homes are already reporting that they will lose a substantial number of employees if this mandate goes into effect. As with the OSHA rule, this new Medicaid rule has yet to be released. But once it is, many interested parties, including states like Nebraska, will review it to determine whether legal action is appropriate.

Third, the Biden administration has declared it is mandating vaccines for employees of companies that contract with the federal government. Unlike the other two mandates, the guidelines for the federal contractor mandate have been released. Those guidelines indicate that after December 8, 2021, the employers covered by this mandate must ensure that their employees are fully vaccinated by the first day of performance under a newly awarded federal contract or an extended or renewed federal contract. Various groups, including states like Nebraska, are evaluating whether the federal government has the legal authority to invoke vaccine mandates as a condition to its federal contracts with private parties.

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