March 2021

Lincoln Absence Advisor: Compliance report

Lincoln's monthly compliance report provides you a summary of all the recent compliance news that may affect your business. We aim to keep you informed and updated on the latest news, from federal to state, courtroom to news.

In March's report:

Updated as of March 27, 2021

Family and Medical Leave

Washington

February 23, 2021:

The Washington Attorney General's Office (AGO) issued an Opinion (AGO 2021 No. 1) which held that elected officials are "employees" for purposes of Washington PFML and are subject to withholding of premiums. The Opinion acknowledged that the PFML law did not directly address the question of whether elected officials qualified as employees; however, looking at the intent of the legislature in enacting the PFML law as well as a comparison with the Employment Security Act and Minimum Wage Act strongly suggests that the legislature intended the PFML law to cover elected officials. Thus, the state, counties, and cities are permitted to collect and required to pay PFML premiums with respect to their elected officials. The full text of the Opinion can be found on the WA AGO website.

March 3, 2021:

The Washington Employment Security Department (ESD) announced they will hold a public rulemaking hearing on the draft regulations on definitions, "hours worked," small business grants and appeals. The hearing is scheduled on April 7, 2021. The rulemaking hearing information and the full text of the draft regulations can be found on the WA PFML rulemaking website.

March 2021:

The ESD published an updated *Statement of Employee Rights* dated March 2021. The updated 2021 form amends the existing Statement of Employee Rights by requiring the employee's name and the date to be

included but removing the employer's signature and the employer's telephone number. WA PFML regulations require employers to provide a written notice of employee rights to any employee when they become aware that the employee is taking family leave, medical leave, or a combination of both for a duration of more than seven consecutive days of work. The form can be found on the WA PFML website.

Connecticut

Contributions and deductions:

As a reminder, contributions for the Connecticut PFML state plan must be remitted quarterly. According to the CT PFML Authority FAQs, there is a one-month grace period for remitting CT PFML contributions for the first quarter ending March 31, 2021. Contributions are due to the state on April 30, 2021. Companies opting for CT PFML private plans should have their private plan applications submitted to the state by March 15, 2021 so they are approved by March 31, 2021 in order to be exempt from remitting contributions to the state plan.

Additionally, the Authority's FAQs provided guidance for employers who missed taking out deductions from paychecks thus far. **While retroactive deductions are typically not permitted, the Authority has advised that there will be an exception for the first two quarters of 2021.** The guidance allows for employers that experienced late implementation of payroll practices by payroll vendors to make employee deductions in amounts greater than 0.5%, capped at 1%, during the first two quarters of 2021 to help them catch up with authorized amounts. If employers need to continue this practice to catch up after July 2021, they would need to reach out to the Labor Commissioner for authorization.

Private plan applications and approvals:

Generally, according to the Private Plan Procedures, "The CT Paid Leave Authority will accept applications on a rolling basis. Applications must be approved no later than 30 calendar days before the end of the quarter in which they go into effect." This means, approvals will have to be received in accordance with the following schedule:

2021 calendar quarters:

- April 1 (Approval March 2)
- July 1 (Approval June 1)
- October 1 (Approval September 1)

Other leave

Federal

January 5, 2021:

The then-President signed House Bill No. 7105, which included an amendment to the Uniformed Services Employment and Reemployment Rights Act (USERRA). This amendment added to the definition of 'service in the uniformed services' to include state active duty. The amendment further defined 'state active duty' as training or other duty, other than inactive duty, performed by a member of

the National Guard of a State, in service to the Governor of a State; and for which the member is not entitled to pay from the Federal Government. This does not include required drills and field exercises.

Kentucky

March 23, 2021:

The Kentucky governor signed House Bill No. 210, which included amendments to the Kentucky Adoption Leave that expanded the definition of qualifying children, require employers to apply their policies for birth parents to adoptive parents, and clarified which adoptive relationships are not included in this type of leave. Parents who adopt children that are under the age of 10 years may take up to 6 weeks of this parental leave. Prior to this amendment this leave, was only available for parents adopting children that were under the age of 7 years.

Employers who have an established policy that provides more than 6 weeks off to birth parents upon birth of their child also offer the same amount of time off to adoptive parents. Additionally, if the employer offers a paid leave or other benefit to birth parents, they must similarly provide the same type, amount, and duration of paid leave or benefit to adoptive parents. This leave is not available to employees who have the following relationship with the adopted child: fictive kin, stepparent, stepsibling, blood relative, including a relative of halfblood, first cousin, aunt, uncle, nephew, niece, and a person of a preceding generation as denoted by prefixes of grand, great, or great-great, or a foster parent who adopts a foster child who is already in their care.

Accommodation

Virginia

February 25, 2021:

Virginia, through House Bill 1848, amended the Virginia Human Rights Act related to employment discrimination and accommodations based on disabilities. One of the amendments stated that this type of accommodation only applies to employers that had at least 5 employees employed every day in 20 or more calendar weeks in the current or prior calendar year. These employers are required to make reasonable accommodations for employees with known physical and mental impairments so they can perform their job, unless the accommodation would place an undue hardship on the employer.

Employers cannot take adverse action against employees that request an accommodation under this law, deny employment to such individuals based on need for an accommodation, require employees to take leave if a reasonable accommodation is an option, or fail to engage in an interactive accommodation process. The amendments also clarified circumstances surrounding undue hardship by first removing the provision that undue hardship is assumed for employers with less than 50 employees if the disability accommodation exceeds $500.

The amendments then added provisions describing how to evaluate whether undue hardship exists. The evaluation requires the employer to review the following: business operational needs, composition and structure of workforce, size of the location, nature and costs of accommodations, consider future similar accommodation requests, and health and safety needs of the employee and others. Employers must also post notice of rights and responsibilities regarding this type of accommodation in a conspicuous location, in their employee handbook, and within 10 days of receiving a request for such an accommodation.

Disability

Virginia

Effective July 1, 2021:

Virginia mandates minimum benefit duration for childbirth in short-term disability policies. A new law will be coming into effect for any short-term disability (STD) policies delivered or issued for delivery in Virginia on or after July 1, 2021 that requires STD insurers to provide a benefit of at least 12 weeks following childbirth. The full text of the law can be viewed here.

In the news

February 1, 2021:

The EEOC announced that Pirtek USA, LLC has agreed to pay a $85,000 settlement in an employment discrimination lawsuit alleging that an employee was terminated due to a perceived disability. The employee was hospitalized with pancreatitis, acute respiratory distress syndrome, and pneumonia, once cleared by their physician to return to work with no restrictions the company terminated him because they saw him as a liability fearing he would get injured on the job. In addition to monetary relief, the company must create and disseminate a written policy against disability discrimination, conduct anti-discrimination training for management and human resources, post notice about the lawsuit, and report to the EEOC twice a year.

February 9, 2021:

The EEOC announced that T&T Subsea, LLC has agreed to pay a $125,000 settlement in an employment discrimination lawsuit alleging that an employee was terminated because due to their medical condition. The employee continued to work as a commercial driver through cancer treatments, then took leave for a related surgery. Once the employee advised they were able to return to work full duty, the company terminated him stating that because he had cancer in the last 5 years, the commercial driver guidelines disqualify him from the job. The employer failed to consider that the guidelines also require individualized medical assessments and an interactive process to evaluate return to work in such circumstances. In addition to monetary relief, the company must update and take out unlawful disqualification language from their anti-discrimination policy. They must also report disability related actions against drivers, disability discrimination complaints from drivers, and driver accommodation requests to the EEOC. Lastly,

the company must provide annual ADA training to management and human resources, post notice about ADA obligations and how employees can report to the EEOC.

February 26, 2021:

The EEOC announced that Optimal Solutions & Technologies, Inc. (OST) has agreed to pay a $60,000 settlement in an employment discrimination lawsuit alleging that an employee was terminated due to their medical condition. The employee disclosed to their employer that they had a brain tumor, and that treatments would last several months and be outside work hours and not affect job performance. Shortly after this disclosure, right before treatments began, the employee was terminated despite history of good job performance. In addition to monetary relief, the company is required to redistribute ADA and accommodation policies to employees, provide ADA training, write a neutral reference letter for the employee, post notice about the lawsuit, post required EEOC posters, report back to the EEOC regarding the handling of similar complaints going forward, and report their compliance with these requirements.

March 1, 2021:

The U.S. DOL announced that as a result of an investigation, Los Angeles World Airports updated their Family and Medical Leave Act (FMLA) policies and procedures. The investigation found that employees waited months for leave request approvals, this was due to several levels of administrative review and routinely seeking second opinions from an in-house health care provider. Additionally, employees were sometimes penalized for seeking leave under FMLA. As a result, the company updated their leave system to a web-based platform that gives updates and approvals within 24 hours, they stopped routinely requiring second opinions, developed a leave specialist reference guide, will have training sessions with the DOL's Wage and Hour Division, and took out disciplinary action procedures from their policies that violated the FMLA.

In the spotlight: COVID-19

Lincoln Financial is here to help you remain confident and prepared during this evolving situation. We're continuously monitoring the latest news, information from the Centers for Disease Control and Prevention and other regulatory and medical experts to offer targeted guidance and support.

Federal

March 11, 2021:

President Biden signed the "American Rescue Plan of 2021" (ARP), which provides for economic relief measures in response to the COVID-19 pandemic. This includes a proposal to provide employer tax credits for voluntary paid leave along the same lines as the Tax Relief Act (TRA). The TRA extended employer tax credits for paid sick leave and paid family leave voluntarily provided by employers under the same terms as the Families First Coronavirus Relief Act (FFCRA). The TRA did not extend the mandate on employers to provide emergency paid leaves. Under the ARP, employers with fewer than 500 employees may continue

to voluntarily provide paid leave in exchange for tax credits. The tax credits under the ARP expire on September 30, 2021. In addition to the leave reasons outlined in the FFCRA, the ARP added new leave reasons for which tax credits can be claimed under voluntary paid sick and family leave to include leave while waiting for test results or a medical diagnosis of COVID-19 after exposure, while waiting for COVID-19 test results that the employee's employer requested, to get a COVID-19 vaccination, or to recover from side effects of a COVID-19 vaccination. The ARP that passed is not identical to the ARP proposed in January, which included plans for mandatory emergency paid leave similar to that under the FFCRA, but with expanded coverage.

District of Columbia

March 17, 2021:

Pursuant to the DC Mayor's Order No. 2021-038, the Declaration of Public Health Emergency was extended to May 20, 2021. COVID-19 leave under the DC FMLA leave program is available while the declaration of public health emergency is in effect. During the declaration of a public health emergency, an employee who has worked for 30 days for an employer of any size may use up to 16 weeks of COVID-19 leave for the following qualifying reasons: care for self, family or household member or childcare closure. For more information on COVID-19 leave under DC FMLA, please see the DC OHR website.

Oregon

Effective March 14, 2021:

The Oregon Department of Consumer and Business Services (DCBS) filed final regulations to make the Quarantine Time Loss Program permanent. The program is available only for workers unable to work because they need to quarantine or isolate and their employer does not provide COVID-19-related paid time off or the worker has exhausted their available COVID-19-related paid sick leave. Eligible workers will get a $120 per-day payment, up to 10 working days ($1,200 total) for the time needed to quarantine or isolate.

Workers may not qualify if they do not work in Oregon or meet the income requirements; they have COVID-19-related paid time off; they received unemployment benefits for the time off due to quarantine; or they received workers' compensation benefits for the time off due to quarantined. Additionally, the program is limited to only those quarantine periods that were in place during or after the effective date of September 16, 2020. Eligible employees must fill out the online form at oregon.gov/covidpaidleave, More information about the program is available on the DCBS website.

Effective March 18, 2021:

The Oregon Bureau of Labor and Industries (BLI) issued a permanent rule, BLI 4-2021, on the use of Oregon Family Leave Act (OFLA) sick child leave during a statewide public health emergency. The temporary rule, BLI 8-2020, which was a temporary rule that added definitions and outlined the verification process for the OFLA sick child leave, originally was set to expire on March 12, 2021; however, the new rule, BLI 4-2021, is permanent and effective from March 18, 2021 onwards. The following definitions and rules were made permanent by BLI 4-2021:

Definitions

- Child Care Provider: Includes individuals who are paid for child care services (ex. nannies, au pairs, and baby sitters) as well as individuals who are not paid but depended on regularly to provide child care (ex. grandparents, aunts, uncles or neighbors). This definition also includes the meaning of place of care, which is a location where child care is provided (ex. day care facility, preschool, before/after school program, school, house, summer camp).
- Closure: Means an ongoing, intermittent, or recurring closure restricting physical access to child's school or child care provider due to a declared statewide public health emergency.
- Intermittent Leave: Means leave taken in multiple blocks of time or for an alternate/reduced work schedule. This can be due to recurring closure of the child's school or child care provider due to a declared statewide public health emergency.

Verification Process
Employers may request the following information to verify the need for leave:

- Name of the child
- Name of the school/child care provider that is closed.
- Employee statement that no other family members are willing and able to care for the child.
- If the child is over 14 years old, a statement explaining that special circumstances require the employee to provide care to the child.

California

March 4, 2021

The California Department of Fair Employment and Housing (DFEH) issued updated guidance for employers and employees on workplace safety during the COVID-19 pandemic. The new guidance replaced prior DFEH guidance issued on March 20, 2020 and July 24, 2020. The new guidance is available on the DFEH website. Here is the text of the guidance on job-protected leave and reasonable accommodations:

Job-Protected Leave

Q: Are employees entitled to job-protected unpaid leave under the California Family Rights Act (CFRA) if they cannot work because they are ill because of COVID-19 or must care for a family member who is ill?
A: Employees may be entitled to up to 12 weeks of job-protected leave under the California Family Rights Act for their own serious health condition, or to care for certain types of family members (such as a child, parent, or spouse). COVID-19 will qualify as a serious health condition if it results in inpatient care or continuing treatment or supervision by a health care provider. It may also qualify as a serious health condition if it leads to conditions such as pneumonia. For more information about CFRA leave, visit: www.dfeh.ca.gov/family-medical-pregnancy-leave/.

Q: If an employee requests leave under the California Family Rights Act because of COVID-19, what kind of certification from a health care professional is appropriate in a pandemic?
A: Generally, employees are expected to give employers notice as soon as practicable when they request CFRA leave because of their or a family members' serious health condition. Employers may require a medical certification of the serious health condition from a health care provider within 15 days of the employee's request, unless it is not practicable for the employee to do so. In the context of a pandemic, it is not typically practicable for employees to provide advance

notice of the need for leave (when that need is related to the pandemic), or for employees to obtain certifications when health care providers are working to address urgent patient needs. In a pandemic, employers must use their judgment and recommendations from public health officials to waive certification requirements when considering and granting leave requests.

Reasonable Accommodations for Employees with A Disability / Vulnerable Populations

Q: If an employee cannot come to work because of illness related to COVID-19, are they entitled to a reasonable accommodation for a disability?
A: Maybe. All employers of five or more employees have an affirmative duty to make reasonable accommodation for the disability of an employee if the employer knows of the disability, unless the employer can demonstrate, after engaging in the interactive process, that the accommodation would impose an undue hardship, the employee is unable to perform the employee's essential duties even with reasonable accommodations, or the employee cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations. When needed to identify or implement an effective, reasonable accommodation for an employee with a disability, the FEHA requires a timely, good faith, interactive process between the employer and employee.

Whether illness related to COVID-19 rises to the level of a disability (as opposed to a typical seasonal illness such as the flu) is a fact-based determination. Employers should consider telework and leave as reasonable accommodations for employees with a disability related to COVID-19 unless doing so imposes an undue hardship. Factors considered when deciding whether providing leave is an undue hardship include: the number of employees, the size of the employer's budget, and the nature of the business or operation. Because an employer and employee are required to work together to try to identify reasonable accommodation for the employee's particular circumstances, employers may not impose an across-the-board accommodation on employees with a disability related to COVID-19.

Q: If an employee has a medical condition that increases their risk for severe illness from COVID-19, is the employee entitled to a reasonable accommodation?
A: According to the CDC, people of any age with the following underlying medical conditions are at increased risk for severe illness from COVID-19: cancer; chronic kidney disease; COPD; down syndrome; pregnancy; smoking; immunosuppressed state from solid organ transplant; obesity; serious heart conditions; sickle cell disease; and Type-2 diabetes. Individuals with the following conditions may be at increased risk for severe illness from COVID-19: moderate to severe asthma; cerebrovascular disease; cystic fibrosis; hypertension or high blood pressure; immunocompromised state from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines; neurologic conditions such as dementia; liver disease; pulmonary fibrosis (having damaged or scarred lung tissues); thalassemia (a type of blood disorder); and Type-1 diabetes.

If the underlying medical condition qualifies as a disability, then the employer must reasonably accommodate the employee, absent undue hardship to the employer. If the underlying medical condition does not rise to the level of a disability, employers are not required to reasonably accommodate the employee, though DFEH suggests that employers endeavor to accommodate

workers who are or may be at increased risk of severe illness from COVID-19 as a general strategy to keep their workers safe and healthy.

Q: If an employee is vulnerable to severe illness from COVID-19 due to their age, is the employee entitled to a reasonable accommodation?
A: According to the CDC, "among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk." However, because age is not a disability, employers are not required to reasonably accommodate employees based on their age alone. Nor may employers discriminate against older employees. For example, an employer may not return only employees under age 65, even if the employer is doing so to protect its older employees from COVID-19 risks.

Q: What medical documentation should employees provide to support a request for reasonable accommodation to work remotely or take leave because they are disabled by COVID-19?
A: Generally, when an employee requests a reasonable accommodation in the form of a change in schedule, telework, or leave, employers may request reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation.

During the current pandemic, it may be impracticable for employees to obtain medical documentation of a COVID-19-related disability from their medical provider. To the extent employers require medical documentation in order to grant reasonable accommodations, DFEH recommends waiving such requirements until such time as the employee can reasonably obtain documentation.

Q: During a pandemic, must an employer continue to provide reasonable accommodations for employees with disabilities that are unrelated to the pandemic, barring undue hardship?
A: Yes. An employer's responsibilities to individuals with disabilities continue during a pandemic. If the employee, because of a physical or mental disability, is unable to perform the employee's essential duties even with reasonable accommodations or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodation, an employer can lawfully exclude the employee from employment or employment-related activities. Nor is an employer required to provide an accommodation that imposes an undue hardship on the employer.

If an employee with a disability needs the same reasonable accommodation at a telework site as at the workplace, the employer should provide that accommodation, absent undue hardship. In the event of undue hardship, the employer and employee should work together to identify an alternative reasonable accommodation.

March 19, 2021

The California Governor signed legislation (SB 95) which provided employees with COVID-19 Supplemental Paid Sick Leave, effective on March 29, 2021. The 2021 COVID-19 Supplemental Paid Sick Leave is available retroactively to January 1, 2021 and is available until September 30, 2021. The new law requires California employers in the public or private sectors with more than 25 employees to provide to their covered employees up to 80 hours of COVID-19 related sick leave from January 1, 2021 through September 30, 2021, immediately upon an oral or written request to their employer. If an employee took leave prior to

March 29, 2021, the employee should request their employer for a "retroactive" payment equal to the amount required.

A covered employee may take leave if the employee is unable to work or telework for any of the following reasons:

1. Own condition: The employee is subject to quarantine or isolation period related to COVID-19 as defined by an order or guidelines of the California Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer with jurisdiction over the workplace, has been advised by a healthcare provider to quarantine, or is experiencing COVID-19 symptoms and seeking a medical diagnosis.
2. Care for a Family Member: The covered employee is caring for a family member who is subject to a COVID-19 quarantine or isolation period or has been advised by a healthcare provided to quarantine due to COVID-19, or is caring for a child whose school or place of care is closed or unavailable due to COVID-19 on the premises.
3. Vaccine-Related: The covered employee is attending a vaccine appointment or cannot work or telework due to vaccine-related symptoms.

Employers subject to the COVID-19 Supplemental Paid Sick Leave cannot require covered employees to use state disability insurance (SDI) before or in lieu of COVID-19 Supplemental Paid Sick Leave. A covered employee may apply for SDI after taking the COVID-19 Supplemental Paid Sick Leave to which the covered employee is entitled.

For more information, please see the CA Department of Industrial Relations website for the 2021 COVID-19 Supplemental Paid Sick Leave FAQs.

Vaccination Leave Guidance

The information presented below aims to help employers with their responsibilities in providing their employees with time off to procure a COVID-19 vaccination. Please be reminded that employees in states not mentioned below may still be covered by additional protections of other federal, state, or local labor and employment laws.

Federal

Do employers have to provide vaccination leave?	It is encouraged.
Vaccine-specific guidance:	Employers should offer flexible, non-punitive sick leave options (e.g., paid sick leave) for employees with signs and symptoms after vaccination.
Resource:	Website

California

Do employers have to provide vaccination leave?	Yes.
Vaccine-specific guidance:	Pursuant to the newly passed SB 95, a covered employee shall be entitled to COVID-19 supplemental paid sick leave to attend an appointment to receive a COVID-19 vaccine, or when they are experiencing symptoms related to a COVID-19 vaccine that prevent the employee from being able to work or telework.
Resource:	Website

Illinois

Do employers have to provide vaccination leave?	It depends.
Vaccine-specific guidance:	Mandatory Vaccinations: If an employer requires employees to get vaccinated, the time the employee spends obtaining the vaccine is likely compensable, even if it is non-working time. Mandatory vaccination requirements by employers should be combined with paid leave for employees to receive the 1st and 2nd dose of the COVID-19 vaccine, or the employer should otherwise provide compensation for the time taken by the employee to comply with an employer-mandated vaccine requirement. Optional Vaccinations: Employees that choose to obtain the vaccine voluntarily should be allowed to utilize sick leave, vacation time or other paid time off for employees to receive the 1st and 2nd dose of the COVID-19 vaccine. Employers that do not choose and are not obligated to provide any paid leave, should consider offering the employee flex time to allow the employee to become vaccinated without having to take unpaid time. If the employer does not wish to provide flex time, the employer should allow the employee flexibility to take the time off unpaid.
Resource:	Website

Maryland

Do employers have to provide vaccination leave?	It depends.
Vaccine-specific guidance:	The Maryland Healthy Working Families Act allows an employee to use leave for a list of reasons that includes in 3-1305(A)(2) "to obtain preventive medical care for the employee or the employee's family

	member." Getting a vaccine would fall under this category and would be an acceptable use of MHWFA time. There is not, however, a separate requirement that obligates employers to pay employees for their time to get a vaccine if leave is not available.
Resource:	Website

Massachusetts

Do employers have to provide vaccination leave?	It depends.
Vaccine-specific guidance:	In Massachusetts, "working time" includes all time during which an employee is required to be on the employer's premises or at any other location. Therefore, if your employer mandates that you receive the vaccine at a specific location and/or on a specific date, this is likely to be considered "working time" and therefore is compensable. If your employer simply requires proof of a vaccine, but does not mandate when, where and how you obtain it, this is unlikely to be considered compensable time.
Resource:	Website

Nevada

Do employers have to provide vaccination leave?	It depends.
Vaccine-specific guidance:	Mandatory Vaccinations: If an employer is requiring employees to get vaccinated, the time off for obtaining the vaccine, even if it is non-working time, is likely to be compensable. Optional Vaccinations: Optional vaccination requirements and/or employees that choose to obtain the vaccine voluntarily should be allowed to utilize leave, paid leave, or1st 2nd the possibility of flex time to obtain the and dose of the COVID-19vaccine. Employers should review their leave and vaccination policies and revise accordingly to provide leave/time to employees to obtain the 1st dose and 2nd dose of the COVID-19 Vaccine.
Resource:	Website

New York

Do employers have to provide vaccination leave?	Yes.
Vaccine-specific guidance:	Governor Andrew M. Cuomo signed legislation (S.2588-A/A.3354-B) granting public and private employees time off to receive the COVID-19 vaccination. Under this new law, employees will be

	granted up to four hours of excused leave per injection that will not be charged against any other leave the employee has earned or accrued. This legislation becomes effective immediately.
Resource:	Website

North Carolina

Do employers have to provide vaccination leave?	It is encouraged.
Vaccine-specific guidance:	Employers are encouraged to provide assistance to their employees to get vaccinated. This means offering paid time off or sick leave to allow employees to get vaccinated and if they have temporary reactions after the vaccine (e.g. fatigue, headache, fever) that makes it hard to work for 24-48 hours after a vaccination.
Resource:	Website

North Dakota

Do employers have to provide vaccination leave?	It is up to employers to decide.
Vaccine-specific guidance:	The state advised employers to consult their legal counsel on offering sick or paid leave for employees following vaccination (e.g. recovery from vaccination).
Resource:	Website

Oregon

Do employers have to provide vaccination leave?	It depends.
Vaccine-specific guidance:	That depends. Receiving a vaccination is not a medical exam, but it likely amounts to medical attention. Under wage and hour law, time spent by an employee waiting for and receiving medical attention on the premises or at the direction of the employer during the employee's normal working hours on days when the employee is working would need to be paid. OAR 839-020-0046(2). On the other hand, if an employee chooses to get a required vaccination off hours and off premises, the time need not be paid. An employee that opts to receive a required vaccination off premises but during work hours, could use any available Oregon sick leave.
Resource:	Website

Updates and upcoming events with Lincoln

New Episodes of the *Lincoln Absence Advisor* podcast

Explore the latest episodes of *Lincoln Absence Advisor*:

- Episode 3, *The Delayed Care Dilemma*. Learn more about how avoiding current health care needs can cause problems for future health.
- Episode 4, *Is Maternity Leave Enough?* Listen to a group discussion on maternity and return-to-work experiences, as well as how the post-maternity period should be viewed by the employer.

To listen, subscribe at Apple, Spotify, or wherever you listen to podcasts.

Webinar: *The Leave Balance: Considerations, impacts and a look ahead*.

On March 30 and April 1, we will dive into some of the biggest areas discussed about the future of leave, from the impacts of the continuous state leave development to the future possibilities of company paid leave. Sign-up here before April 1 to make sure you get a copy of the presentation and recording.

LCN-3503445-032221
DOC 3/21 Z01