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Randi Winter Provides Insight into COVID-19 Vaccination Concerns with Employees Returning to Office

Spencer Fane attorney Randi Winter was recently quoted in an *American City Business Journals* article discussing why employers no longer face consequences from an Occupational Safety and Health Administration (OSHA) mandate-or-testing rule for COVID-19 but still must grapple with the issue. The increased focus comes as more employees return to the office setting regardless of vaccination status.

In the article, As Employees Return to the Office, Companies Grapple with Vaccine Tensions, Randi confirmed employers have a right to ask workers about vaccination status, but federal agencies have maintained this is considered confidential medical information that shouldn't be shared outside of core HR functions.

"I encourage clients to instruct their managers and human resource representatives to discourage employees from asking co-workers directly about their vaccination status," Randi said. "Although employees can voluntarily share that information with colleagues, they should not be pressured or required to do so."

Randi added that employers should consider sharing "statistical information regarding the percentage of vaccinated employees within the workplace," aggregated but anonymous statistics that don't carry the same confidentiality. However, even this type of analysis should not necessarily be made available to clients or vendors.

One major trap for the unwary has been requests by third-party business partners and customers for an employer to disclose the vaccination status of its employees," Randi said in the article. "In most instances, an employer cannot disclose an

individual employee's vaccination status to a third party, even if that third party has a good reason to ask for the information, such as if the employee regularly visits the third party's workplace."

This article was picked up by multiple outlets of the *American City Business Journals*, business newspapers based in a majority of the country's largest metropolitan areas.

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