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AG SLATERY CHALLENGES LEGAL BASIS OF COVID VACCINATION/TESTING MANDATE

Letter to Biden says public health decisions are better left to states, local communities

Nashville- In a letter to President Joe Biden, Tennessee Attorney General Herbert H. Slatery III expresses serious concerns about the legality of a recently announced nationwide vaccination and testing requirement for COVID-19.

According to the President's plan, the Occupational Safety and Health Administration (OSHA) would mandate all private employers with at least 100 employees to be vaccinated for COVID-19 or produce weekly negative test results.

While not available in writing yet, public statements from the Biden Administration about the mandate indicate an unprecedented assertion of emergency regulatory powers by a federal agency.

"I would encourage everyone eligible, in consultation with a doctor, to get a COVID vaccination. It is one effective way out of this pandemic," said General Slatery. "However, this vaccine-or-test mandate appears to be an unprecedented expansion of federal power and fails to consider the steps individuals, employers, and our state have already made."

[In the letter](#), General Slatery says the proposal is too broad and likely violates federal law, including both the Occupational Safety and Health Act and the Constitution.

The letter raises the following specific concerns about the proposed mandate:

- Requires vaccination or testing regardless of the risk of COVID-19 exposure at any given job site and disregards what an employer and employees have done to reduce the risk.
- Contradicts recent and repeated communication from The White House and OSHA that masking and other measures are sufficient.
- Ignores that COVID-19 is not a hazard specific to the workplace.
- Could violate the principle that Congress may not delegate its legislative authority to a federal agency.
- Undermines the federalist structure of our government which gives States—not the federal government—primary responsibility to protect the health and safety of citizens.
- Fails to consider religious liberty, free speech, and bodily autonomy concerns.

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