



Q&A – WORKERS’ COMPENSATION LIABILITY FOR COVID-19 VACCINE REACTIONS – IOWA

By: Sue Conley

1. **What if an employer mandates the COVID-19 vaccination for its employees and an employee develops an allergic reaction that requires medical care and time off from work?**

Is the employee entitled to workers’ compensation benefits?

Iowa: Yes. To mandate employees to receive the vaccine and developing a reaction would be considered a personal injury. To prove that an injury is compensable, there needs to be a causal relationship between the employment and the injury. The Iowa Supreme Court has defined “injury” broadly. Iowa law requires payment of compensation “for any and all personal injuries sustained by an employee arising out of and in the course of employment.” Iowa Code § 85.3(1). See also, § 85.61, subd. 7, injuries to employees who are engaged elsewhere in places where their employer’s business requires their presence and subjects them to dangers incident to the business are compensable.

2. **What if an employer does not mandate employees to get the COVID-19 vaccination, but offers it to employees who choose to get it, with an on-site COVID-19 vaccine clinic?**

Is there workers’ compensation liability if the employee develops a reaction?

Iowa: It depends. It may or may not be compensable. These cases must be evaluated on various factors: Was the activity on the employer’s premises? Was it during the regular workday? To what degree did the employer sponsor the activity? What control did the employer exercise over the activity? Was attendance required or expected? Was the employee compensated for attendance? Was there a substantial and direct benefit to employer (*See John Lawyer*). If the act is for the mutual benefit of both, an injury arising out of it will usually be compensable. If the act is for exclusive benefit of the employee, so that it is a personal privilege, and the injury is not compensable (*Linderman v. Cownie Furs*, 234 Iowa 708, 714, 13 N.W.2d 677 680-6 (1944)).

The Iowa Supreme Court, in *Briar Cliff Coll v. Campolo* 360 N.W.2d 91 (Iowa 1984) expanded on this. Due to the business-related benefits test that courts use, if there are recreational or social activities where the employer derives substantial direct benefit from the activity beyond the intangible value of improvement of employee health and morale, employees will still be in the course of employment. Further, if the COVID-19 vaccine clinic can be considered to be company property then there is the possibility courts may rule the injury is compensable.



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3. What if an employer does not mandate employees to get the COVID-19 vaccine, but strongly encourages employees to get it by offering an incentive, and offers it to employees who choose to get it, with an on-site COVID-19 vaccine clinic?

Is there workers’ compensation liability if the employee develops a reaction?

Iowa: Again, it depends on the factors outline in 2 above. An employer offering encouragement to employees to get the vaccine does not make the vaccine mandatory. However, due to the business-related benefits test, if the courts find that the employer, either expressly or impliedly required participation, that would bring this activity into the orbit of causation and would make an injury compensable. If employer derives substantial direct benefit from the activity beyond the intangible value of improvement in employee health and morale that is common to all kinds of recreation and social life would also let an employee be compensated.

Arthur Chapman’s [Workers Compensation Group](#) is available to answer additional questions on this topic.