



# Herbert H. Slatery III Attorney General & Reporter

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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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