

CORONAVIRUS

Supreme Court halts vaccine rule for large businesses

Court allows vaccine mandate for most health care workers

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Associated Press

WASHINGTON — The Supreme Court has stopped a major push by the Biden administration to boost the nation's COVID-19 vaccination rate, a requirement that employees at large businesses get a vaccine or test regularly and wear a mask on the job.

At the same time, the court is allowing the administration to proceed with a vaccine mandate for most health care workers in the U.S. The court's orders Thursday came during a spike in coronavirus cases caused by the omicron variant.

The court's conservative majority concluded the administration overstepped its authority by seeking to impose the Occupational Safety and Health Administration's vaccine-or-test rule on U.S. businesses with at least 100 employees. More than 80 million people would have been affected and OSHA had estimated that the rule would save 6,500 lives and prevent 250,000 hospitalizations over six months.

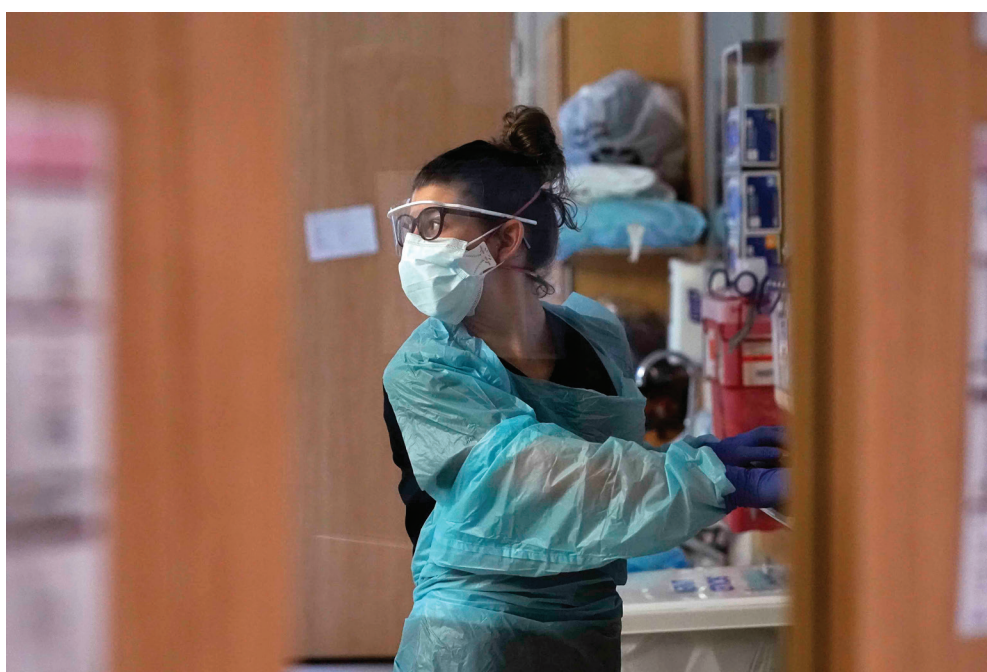
"OSHA has never before imposed such a mandate. Nor has Congress. Indeed, although Congress has enacted significant legislation addressing the COVID-19 pandemic, it has declined to enact any measure similar to what OSHA has promulgated here," the conservatives wrote in an unsigned opinion.

In dissent, the court's three liberals argued that it was the court that was overreaching by substituting its judgment for that of health experts. "Acting outside of its competence and without legal basis, the court displaces the judgments of the government officials given the responsibility to respond to workplace health emergencies," Justices Stephen Breyer, Elena Kagan and Sonia Sotomayor wrote in a joint dissent.

President Joe Biden said he was "disappointed that the Supreme Court has chosen to block common-sense life-saving requirements for employees at large businesses that were grounded squarely in both science and the law."

Biden called on businesses to institute their own vaccination requirements, noting that a third of Fortune 100 companies already have done so.

Washington state Gov. Jay Inslee on Thursday announced that members of the Washington National Guard will help staff hospitals and testing sites across the state, as the health care system struggles with surging COVID-



Elaine Thompson/AP Photo
Registered nurse Jessalynn Dest looks across the room while treating a COVID-19 patient in the acute care unit of Harborview Medical Center on Friday in Seattle.

THE COURT'S CONSERVATIVE MAJORITY CONCLUDED THE ADMINISTRATION OVERSTEPS ITS AUTHORITY BY SEEKING TO IMPOSE THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION'S VACCINE-OR-TEST RULE ON U.S. BUSINESSES WITH AT LEAST 100 EMPLOYEES. MORE THAN 80 MILLION PEOPLE WOULD HAVE BEEN AFFECTED.

19 caseloads.

In an echo of the early months of the pandemic, Inslee ordered a four-week pause on nonemergency procedures at hospitals and encouraged retired health care workers to consider helping out.

Inslee said for now he is not planning for a vaccine mandate for private businesses.

Oregon is calling off its work toward adopting a vaccine-or-test rule for large employers.

In a statement on its website, Oregon OSHA said it would suspend work on its rule.

"Oregon OSHA will continue to monitor federal OSHA activities and respond as needed," the agency said. "In light of the Supreme Court decision, however, Oregon OSHA will not move forward with adopting the same or similar standard in Oregon."

When crafting the OSHA rule, White

House officials always anticipated legal challenges — and privately some harbored doubts that it could withstand them. The administration nonetheless still views the rule as a success at already driving millions of people to get vaccinated and encouraging private businesses to implement their own requirements that are unaffected by the legal challenge.

The OSHA regulation had initially been blocked by a federal appeals court in New Orleans, then allowed to take effect by a federal appellate panel in Cincinnati.

Both rules had been challenged by Republican-led states. In addition, business groups attacked the OSHA emergency regulation as too expensive and likely to cause workers to leave their jobs at a time when finding new employees already is difficult.

The National Retail Federation, the nation's largest retail trade group, called the

Supreme Court's decision "a significant victory for employers."

The vaccine mandate that the court will allow to be enforced nationwide scraped by on a 5-4 vote, with Chief Justice John Roberts and Justice Brett Kavanaugh joining the liberals to form a majority. The mandate covers virtually all health care workers in the country, applying to providers that receive federal Medicare or Medicaid funding. It affects 10.4 million workers at 76,000 health care facilities as well as home health care providers. The rule has medical and religious exemptions.

Biden said that decision by the court "will save lives."

In an unsigned opinion, the court wrote: "The challenges posed by a global pandemic do not allow a federal agency to exercise power that Congress has not conferred upon it. At the same time, such unprecedented circumstances provide no grounds for limiting the exercise of authorities the agency has long been recognized to have." It said the "latter principle governs" in the health care arena.

Justice Clarence Thomas wrote in dissent that the case was about whether the administration has the authority "to force health care workers, by coercing their employers, to undergo a medical procedure they do not want and cannot undo." He said the administration hadn't shown convincingly that Congress gave it that authority.

Justices Samuel Alito, Neil Gorsuch and Amy Coney Barrett signed onto Thomas' opinion. Alito wrote a separate dissent that the other three conservatives also joined.

Decisions by federal appeals courts in New Orleans and St. Louis had blocked the mandate in about half the states. The administration already was taking steps to enforce it elsewhere.

More than 208 million Americans, 62.7% of the population, are fully vaccinated, and more than a third of those have received booster shots, according to the federal Centers for Disease Control and Prevention. All nine justices have gotten booster shots.

The courthouse remains closed to the public, and lawyers and reporters are asked for negative test results before being allowed inside the courtroom for arguments, though vaccinations are not required.

The justices heard arguments on the challenges last week. Their questions then hinted at the split verdict that they issued Thursday.

A separate vaccine mandate for federal contractors, on hold after lower courts blocked it, has not been considered by the Supreme Court.

Associated Press writer Zeke Miller, the Seattle Times and The Oregonian contributed to this report.

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To test? Or not to test?
WHEN TO GET A COVID-19 TEST

You've had a known COVID-19 exposure but don't have any symptoms. What's next?

If you were fully vaccinated with Pfizer or Moderna or had their booster within the last 5 months OR you received the initial J&J dose within the past 2 months:

- Testing is recommended at day 5.
- Wear a mask around others for 10 days. No quarantine needed.

If you were fully vaccinated with Pfizer or Moderna more than 5 months ago or have not had their booster within the last 5 months OR you received the initial J&J dose more than 2 months ago:

- Quarantine at home for 5 days.
- Testing is recommended at day 5.
- Continue to wear a mask for another 5 days.

Regardless of vaccination status, if you test positive:

- Isolate at home for 5 days. You must be fever-free for 24 hours without medication before leaving your home.
- If symptoms are resolved or improving, continue to wear a mask for another 5 days.

PROVIDENCE Seaside Hospital

CLATSOP COUNTY PUBLIC HEALTH

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(COVID-19 TESTING INFO)

Please remember county Emergency Rooms and Urgent Care Clinics are for treating emergencies and illnesses. We need to keep them open for those who need care. **They are not the place** for people simply looking for COVID testing.

If you need a COVID test or are wondering where to get one, please call the Clatsop County Public Information Call Center at 503-325-8500. They will triage your case and help you find the right testing resource.