

## Amendment to PREP Act Declaration Expands Pool of Vaccinators

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Effective January 28, 2021, the acting secretary of the Department of Health and Human Services (HHS) amended the Public Readiness and Emergency Preparedness Act (PREP Act) Declaration for Medical Countermeasures Against COVID-19. Identifying the “urgent need to expand the pool of available COVID-19 vaccinators in order to respond effectively to the pandemic,” the Fifth Amendment—the first under the Biden Administration—aims to increase the number of potential qualified persons authorized to administer COVID-19 vaccines by adding two additional categories of “Covered Persons” who can administer “Covered Countermeasures” (e.g., vaccinations).

Specifically, the Fifth Amendment removes any limitations for health care professionals holding active licenses or certifications from administering vaccines across state lines, so long as the vaccination efforts are in conjunction with federal, state, or local authorities in that state. The Fifth Amendment also allows retired or non-licensed doctors, nurses, or nurse practitioners who held a license within the past five years to administer vaccines, so long as 1) the license was in good standing upon expiration, and 2) the professional is not on the Office of Inspector General’s list of excluded individuals or entities. It is worth noting this provision does not include physician assistants, and any retired or non-licensed health care professional also must undergo an on-site observation period by a currently practicing health care professional. Finally, in order to qualify as a “Covered Person” under either category, the health care professional must complete the CDC’s COVID-19 Vaccination Training.

According to HHS, this expansion of who qualifies as a “Covered Person” provides liability protections under the PREP Act for additional qualified persons to administer COVID-19 vaccines and makes clear that any state law that would otherwise prohibit a qualified person from administering such a vaccine is preempted (see our previous blog post [here](#)).

If you have any questions about the effect of the Fifth Amendment, please contact Sandra Edwards, John Drosick, or your Winston relationship attorney. A link to the Fifth Amendment is [here](#).

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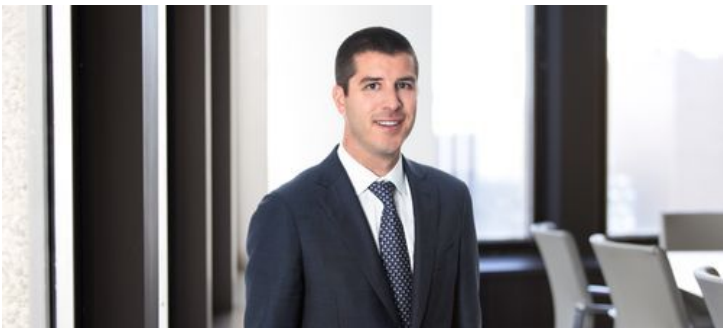
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