With surveys showing that just about half of Americans surveyed would now be willing to get a COVID-19 vaccine when it becomes available—down from about 70% in May—some wonder whether vaccine mandates will be needed to achieve herd immunity.

During a recent “Ethics Talk” videocast from the AMA Journal of Ethics®, Debbie Kaminer, JD, a professor in the Department of Law at the Zicklin School of Business, Baruch College in New York City explained that states and the federal government have the law on their side if they needed to enact mandates to ensure sufficient vaccination rates.

States already require school children to be vaccinated and court decisions have continuously upheld mandates, Kaminer said. In addition, as long as a mandate is neutral when it comes to religion and does not single out religious behavior, religious exemptions do not legally need to be written into the mandate.

But, Kaminer argued, that is not the best way to go about ensuring Americans get a COVID-19 vaccine.

Mandates “are heavy-handed,” she said. “They can be divisive. They can backfire and then the end result is it’s going to increase tensions,” she said. “What you can have instead are more targeted policies.”

Kaminer offered several simple, inexpensive actions that elected officials, community leaders and business leaders can take to encourage people to get vaccinations.

**Maintain public trust**

Public health entities need to maintain their credibility for people to be comfortable getting a COVID-
19 vaccine.

“If people don’t trust the government and the government announces that a vaccine is safe and effective, people are not going to get vaccinated,” Kaminer said.

Traditionally, a small number of people were vaccine resistant or vaccine hesitant and not get the vaccine.

“What is so troubling in terms of a potential COVID-19 vaccine is now the very people who used to be first in line to get vaccinated are very skeptical that a vaccine may be fast-tracked by the Trump administration for political reasons and this can be very, very problematic,” Kaminer said.

Learn from AMA President Susan R. Bailey, MD, how words and actions that erode trust in the Centers for Disease Control and Prevention hurt us all.

Target high-risk groups

One way to avoid mandates is to have targeted policies and to focus on those who are most likely to get ill or most likely to spread the disease.

For example, Kaminer said, COVID-19 spreads easily in indoor venues, so municipalities, states or Congress could pass a law that says you need to show proof of a vaccine to enter a bar, sporting event, concert or other activity that packs many people into small spaces. The idea is not much different than having to show proof of being 21 or older if you go into a bar and want a drink.

“It simply doesn’t come across as heavy-handed,” she argued.

Employers can take the lead

Health care and education workplaces have traditionally had vaccine requirements. Now that COVID-19 has left other workers’ health at risk in an unprecedented way, employers can legally create policies requiring employees get vaccinated.

Whether the business is a bar, gym, restaurant or factory, the most important thing is transparency, Kaminer said. Business leaders should let employees know the purpose of the policy is to protect their health and jobs.


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Lead by example

Business owners and executives can show their employees they are getting vaccinated. State officials also should get publicly vaccinated, Kaminer said.

Communicate a clear message

Elected officials can tell the community that they don’t want to have to rely on a mandate to ensure people get vaccinated and emphasize that getting vaccinated is a way to protect others. Religious leaders, social media influencers, celebrities and other community leaders can also help spread the word about how important it is to get vaccinated.

“People don’t want to view themselves as uncaring and disrespectful,” Kaminer said. Realistically, she said she believes getting enough people vaccinated, will be “some combination of government mandates, employer mandates and also some of this messaging and nudging.”

The AMA is closely monitoring the COVID-19 pandemic. Learn more at the AMA COVID-19 resource center. Also check out pandemic resources available from the AMA Code of Medical Ethics, JAMA Network™ and AMA Journal of Ethics, and consult the AMA’s physician guide to COVID-19

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