

## Health Alert

### Guidance Regarding the COVID-19 Vaccine Mandate for Healthcare Workers August 25, 2021

*The following is intended as a plain language summary of rules during the COVID-19 emergency and does not replace the need to follow all applicable federal, state, and local laws and regulations.*

The City of Philadelphia has issued an Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Healthcare Workers and In Higher Education, Healthcare, and Related Settings ("Vaccine Mandate Regulation"), which mandates vaccine for healthcare workers and in higher education, healthcare, and related settings. This mandate became Effective on August 16, 2021 and requires Healthcare Workers and certain workers at Healthcare Institutions to be fully vaccinated by October 15, 2021.

Fully vaccinated means it has been two weeks since the final dose of vaccine.

#### **Healthcare Institution:**

Any entity or individual that employs or otherwise coordinates the services of Healthcare Workers in the City.

#### **Healthcare Workers:**

Any individual involved in providing any of the following healthcare related services in-person to patients or clients or any individual working in a Healthcare Institution must be fully vaccinated.

- Inpatient or outpatient medicine
- Behavioral health
- Dental
- Nursing
- Personal care, which may include services provided in a personal care home or at the home of a patient or client, including professional support services to help someone who needs assistance to live independently due to aging; manage chronic issues; recover from a medical condition; or a special need or disability. Such services may be long- or short-term and provided by nurses, aides, or therapists.
- Assisted living
- Intermediate care
- Adult daycare
- Long-term care
- Acupuncture
- Audiology
- Hearing aid
- Chiropractic care
- Naturopathic care
- Occupational therapy
- Physical therapy
- Athletic training as defined by the PA Board of Medicine as the management and provision of care of injuries to a physically active person, with the direction of a licensed physician, including giving emergency care, and creating injury prevention programs for the physically active person.
- Optometry
- Speech and language pathology
- Covid testing
- Vaccine clinic
- Blood drive
- School nursing
- Pharmaceutical

#### **Healthcare Institution Workers:**

Any individual who works for a Healthcare Institution (Healthcare Institution Worker) at a location where patients or clients receive healthcare related services, regardless of whether that individual provides services to patients, must be fully vaccinated.

- This includes any employee, contract worker, volunteer or student involved in working, volunteering, or learning in the capacity of a Healthcare Worker or Healthcare Institution Worker.

Individuals who are not required to be vaccinated include only:

- Individuals who perform their duties completely through telework.
- Individuals who do not provide healthcare services to patients or clients; and are employed at a retail establishment that provides only incidental healthcare related services, such as pharmacies and grocery stores.

- Individuals who are employed by a Healthcare Institution; who do not provide healthcare services to patients or clients; and do not work in a building where patients or clients receive healthcare related services, such as a medical billing specialist or appointment setter.

### **Contractors working in Healthcare Institutions:**

Contracted workers must abide by the vaccine requirement.

### **Contracting agency:**

Any individual or entity that contracts with a Healthcare Institution. A Healthcare Institution may delegate responsibility for obtaining vaccine status, evaluating exemptions, and implementing appropriate accommodations to a Contracting Agency. If delegated, the contracting agency must agree to abide by the following requirements:

1. The Contracting Agency agrees to perform all responsibilities of the Healthcare Institution as provided for in the Vaccine Mandate Regulation and this guidance.
2. The Contracting Agency must, at a minimum, report to the Healthcare Institution the following for all contract workers who perform services at the Healthcare Institution:
  - Percentage of contract workers that are vaccinated
  - Percentage of contract workers with exemptions
  - Results of screening testing of contracted individuals when necessary for contact tracing in the institution
3. The Contracting Agency must make all required records available to PDPH upon request.

The Healthcare Institution remains responsible for assuring its contractors comply with these requirements if responsibility under the Vaccine Mandate Regulation is delegated to the Contracting Agency.

### **Exemptions:**

An individual may not simply opt out of vaccination. They must submit a medical or religious exemption to the Healthcare Institution where such individual works according to the policies set by the institution. The Institution will determine if an exemption applies.

Healthcare Institutions and organizations that are granting exemptions must create appropriate exemption policies to implement this regulation. **Institutions may establish stricter vaccination policies for their workers, contractors, and volunteers that exceed the requirements of the Vaccine Mandate Regulation, to the extent otherwise permitted by applicable law.**

A Healthcare Worker or Healthcare Institution Worker who is granted an exemption must strictly follow the applicable accommodation, including documenting their participation in the accommodation process that their employer or institution has agreed upon. Healthcare Institutions are required to keep records of vaccination status of all vaccinated individuals, exemptions requested and granted, and participation in accommodations granted. Records must be made available to PDPH upon request. Self-employed Healthcare Workers must carefully document the need for exemption and ongoing compliance with routine testing as set forth below under "Accommodations for Exceptions."

### **Medical**

The Healthcare Worker or Healthcare Institution Worker may request an exemption by submitting a certification from a licensed healthcare provider to the appropriate Healthcare Institution. Medical exemptions must include a statement signed by a licensed healthcare provider that states the exemption applies to the specific individual submitting the certification because the COVID-19 vaccine is medically contraindicated for the individual. The certification must also be signed by the Healthcare Worker or Healthcare Institution Worker. For the purposes of the Vaccine Mandate Regulation a licensed healthcare provider means a physician, nurse practitioner, or physician assistant licensed by an authorized state licensing board.

### **Religious**

The Healthcare Worker or Healthcare Institution Worker may request an exemption by submitting a signed statement in writing that the individual has a sincerely held religious belief that prevents them from receiving the COVID-19 vaccination. An institution may request the worker explain in the certification why the worker's religious belief prevents them receiving the COVID-19 vaccine.

Philosophical or moral exemptions are not permitted.

### **Accommodations for Exemptions**

Healthcare Institutions must instruct exempted workers to comply with, and such workers must comply with, one of the following options for accommodation:

- 1. Routine Testing:** Exempt individuals must be tested by a PCR test or an antigen test for COVID-19 at least twice (2x) per week. The two tests should be spread out appropriately over the week, but there is not a required time interval to account for varying schedules.
- 2. Virtual accommodation:** If possible, the Healthcare Institution can create a fully virtual option for the individual.

### **Masking**

All healthcare institutions must continue to enforce all masking requirements that may apply, regardless of vaccination status.

### **Record Keeping**

The institution must maintain vaccination records and testing results. All results must be reported to the Department of Public Health. Any vaccination, exemption or testing records must be made available to the Department of Public Health upon request.

### **Frequently Asked Questions**

#### **How are you recommending Healthcare Institutions handle exemptions? Does our institution need to create an exemption committee to review/grant/deny exemption requests?**

In the case of either exemption, an exemption committee is not required. It is up to the institution to determine the method most adaptable to its population's needs in reviewing and deciding upon exemption requests.

- For both exemptions, a certification is required by the individual seeking exemption affirming that the statements being submitted are truthful and correct. This certification must be made subject to applicable fines and penalties, including as provided in Section 1-108 of The Philadelphia Code. See "What must be included in the documents?" below.
- For medical exemptions, a committee may be helpful in reviewing the truthfulness and accuracy of documentation required for medical exemption. Alternatively, a licensed medical provider familiar with current medical conditions and contraindications to FDA and WHO authorized (EUA or EUL) vaccinations could review exemption requests.
- The Centers for Disease Control and Prevention (CDC) provide ongoing recommendations on COVID-19 vaccinations, including contraindications. Check [Contraindications and Precautions](#) frequently for ongoing updates.

#### **What are the documents required for someone seeking a medical exemption?**

The individual must request an exemption by submitting a signed certification from a licensed healthcare provider and signed by the individual seeking the exemption to the appropriate institution. Each Healthcare Institution may determine if it will require additional documentation.

#### **What must be included in the documents?**

- a. A statement by a licensed healthcare provider, including a physician, nurse practitioner, or physician assistant issued by an authorized state licensing board
- b. Including facts explaining why the exemption applies to the specific individual submitting the certification because
- c. The vaccine is contraindicated for the specific individual.

The individual must also acknowledge the information on the exemption request is true and accurate. Section 1-108 of the Philadelphia Code uses the following language:

"I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statement herein, I am subject to such penalties as may be prescribed by statute or ordinance."

Signed \_\_\_\_\_

### **What are the documents required for someone seeking a religious exemption?**

The individual must request an exemption by submitting a statement that certifies **they have a sincerely held religious belief that prevents them from receiving the vaccination**

### **What must be included in the documents?**

- A statement as to the sincerely held religious belief preventing the individual from receiving the vaccination
- Any other documents the individual wishes to include that attest to the individual's sincerely held religious belief.

The individual must also acknowledge the information on the exemption request is true and accurate. Section 1-108 of the Philadelphia Code uses the following language:

"I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statement herein, I am subject to such penalties as may be prescribed by statute or ordinance."

Signed \_\_\_\_\_

### **Are at home tests a recognized form of testing?**

FDA-authorized at home tests are a recognized form of testing. Follow the instructions in the package and report all results to PDPH.

Both positive and negative COVID results must be reported within 24 hours of testing. Results can be reported directly to PDPH via a [REDCap Database](#) or by exporting a standardized file from an EHR or other data collection system and sending via a secure File Transfer Protocol (sFTP). Please contact [COVID.EPI@phila.gov](mailto:COVID.EPI@phila.gov) to obtain further instructions on reporting via the sFTP.

### **If an individual works less than twice in a given week as a Healthcare Worker or Healthcare Institution Worker, does that individual still need to be tested twice in that week?**

No, the individual should be tested the days they work if they work less than twice in a week.

### **What can happen if a COVID-19 vaccination card is fraudulently used or provided?**

According to the FBI, unauthorized use of an official government agency's seal can be punished with a fine or up to five years in prison.

### **What can happen if exemption letters are fraudulently provided?**

Use of certifications, such as letters from providers stating an individual has a false medical contraindication, is a violation of The Philadelphia Code and punishable by fines of up to \$300 per violation. Failure to comply with the requirements of the Vaccine Mandate Regulation is also a violation of The Philadelphia Code and punishable by fines of up to \$2,000 per violation for businesses, and up to \$500 per violation for individuals.

### **Is there clarification regarding what "Healthcare Workers" covers?**

Any individual involved in providing in-person healthcare or healthcare related services to patients/clients is a Healthcare Worker.

In addition, Healthcare Institution Workers must be vaccinated, this includes any individual who works in a building where healthcare related services are provided, including those who work/volunteer/intern at or are otherwise affiliated with a Healthcare Institution where patients/clients/visitors are present and receiving services. This requirement applies whether or not the Healthcare Institution Worker has direct contact with other staff/patients/clients/visitors at the same Healthcare Institution in the course of their daily business or duties at that Healthcare Institution.

- For example: A gift-shop worker in a hospital would be covered as a Healthcare Institution Worker. A janitor at a non-residential physical rehabilitation center would also be covered. Both locations involve the day-to-day care healthcare or healthcare related services of patients or clients and may host visitors of those patients/clients. Those who work at behavioral health facilities are included, too.
- A customer service specialist at the medical billing office of a major healthcare system, who works in a building where no patient care takes place would not be considered a Healthcare Worker or a Healthcare Institution Worker. Although

the medical billing office may technically be “healthcare related service”, no active in-person healthcare or healthcare - related services are provided to patients.

**Does this mandate apply to either intermediate care facilities or rehab settings where nursing is provided and/or where health-related supports are rendered?**

Yes. If nursing or behavioral healthcare is provided or if other health-related supports are provided in person to patients/clients, those settings are covered under the Regulation.

**Does this mandate apply to behavioral health facilities or drug and alcohol rehab settings where nursing is provided and/or where health-related supports are rendered?**

Yes. If nursing or behavioral healthcare is provided or if other health-related supports are provided in person to patients/clients, those settings are covered under the Regulation.

**Does this mandate apply to home health care workers?**

Yes. Home Health Care Workers, home health aides, and home and community based care attendants providing in-person healthcare or healthcare related services, including family members serving as paid caregivers for other family members. The employing agencies of such individuals are considered Healthcare Institutions under the Regulation. Home Healthcare Workers who are self-employed must keep a copy of their vaccination record, or if exempt, keep appropriate documentation regarding exemption and testing.

**Does this mandate apply to contract employees?**

Yes. Contract employees of Covered Health Institutions are included if they can be considered Healthcare Workers. The Regulation defines Healthcare Workers based on the services provided or locations at which services are provided, not by the nature of the individual’s employment status.

**What is the process if an employee refuses to comply?**

If an employee refuses to apply for an exemption and/or refuses the extra accommodation options, the institution may not continue to employ the individual in the capacity of a Healthcare Worker or Healthcare Institution Worker doing work on location. The institution should consult with their legal department or human resources department on appropriate steps according to institutional policies.

There are no philosophical, political, social, or economic exemptions available for the mandate. If the medical or religious exemption is not granted, employees may not provide in-person healthcare or Healthcare Related Services and may not work as a Healthcare Institution Worker (i.e., for a Healthcare Institution in a building where other employees provide patients or clients Healthcare Related Services).

**Who can I talk to if I have questions about this as an employee?**

In all cases, we recommend the employee speak with their HR representative and/or legal counsel regarding options.

Employees may reach out to PDPH with questions or concerns via the Call Center at (215) 685-5488, or email [covid@phila.gov](mailto:covid@phila.gov), or direct specific workplace related concerns to the Office of Worker Protections at the Philadelphia Department of Labor at (215) 686-0802.

**Who will be monitoring the compliance?**

The Health Department will monitor, and Healthcare Institutions are required to keep records of vaccination status of all Covered Individuals, exemptions requested and granted, and accommodations granted.

**Who is responsible for logging vaccinated and testing results? Who will be checking from the city?**

The institution must maintain vaccination records and testing results. All results must be reported to the Department of Public Health. Any vaccination, exemption or testing records must be made available to the city upon request. Both positive and negative COVID results must be reported within 24 hours of testing. Results can be reported directly to PDPH via a [REDCap Database](#) or by exporting a standardized file from an EHR or other data collection system and sending via a secure File Transfer Protocol (sFTP). Please contact [COVID.EPI@phila.gov](mailto:COVID.EPI@phila.gov) to obtain further instructions on reporting via the sFTP.

**Resources:**

- [August 16, 2021 Regulation](#)
- [CDC Contraindications and Precautions](#)
- [How to Confirm Proof of Vaccination / Verifying Immunization Records](#)