

**Sector: HEALTHCARE, AND RELATED SETTINGS**

*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.

**Definitions**

*Contracting Agency:* Any individual or entity that contracts with a Healthcare Institution.

*Direct Care Worker:* 1. The individual employed by a home care agency or referred by a home care registry to provide home care services to a consumer, OR; 2. A person employed for compensation by a provider or participant who provides personal assistance services or respite services.

*Direct Support/Service Professionals-* Individuals providing an HCBS or base-funding service to the [an] the individual.

*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

- 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

- 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.

*Home Care Agency:* An organization that supplies, arranges or schedules employees to provide home care services, as directed by the consumer or the consumer's representative, in the consumer's place of residence or other independent living environment for which the organization receives a fee, consideration or compensation of any kind.

*Home Care Registry:* An organization or business entity or part of an organization or business entity that supplies, arranges or refers independent contractors to provide home care services, as directed by the consumer or the consumer's representative, in the consumer's place of residence or other independent living environment for which the registry receives a fee, consideration or compensation of any kind.

*Instrumental Activities of Daily Living:* The term includes the following activities when done on behalf of a participant: (i) Laundry; (ii) Shopping; (iii) Securing and using transportation; (iv) Using a telephone; (v) Making and keeping appointment; (vi) Caring for personal possessions; (vii) Writing correspondence; (viii) Using a prosthetic device; (ix) Housekeeping.

*Participant:* A person receiving services through a waiver or the Act 150 program.

*Personal Assistance Services:* Services aimed at assisting the participant to complete ADLs and IADLs that would be performed independently if the participant did not have a disability.

*Provider:* A Department-enrolled entity which provides a service.

*Relative:* A spouse or parent; child; stepparent; stepchild; grandparent; grandchild; brother; sister; half-brother; half-sister; aunt; great aunt; uncle; great uncle; niece; or nephew, by blood, marriage or adoption.

*Respite Services:* Personal assistance services which are provided on a temporary, short-term basis when a non-compensated caregiver is unavailable to provide personal assistance services.

### **Who is Covered Under the Mandate:**

#### **Contracting Agency**

- 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

#### **Healthcare Institution**

- Includes contracted workers

#### **Healthcare Institution Workers**

- Includes Direct Care Workers, Direct Support Professionals
- Individuals who are not required to be vaccinated include only:
  1. Individuals who perform their duties completely through telework.
  2. 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.
  3. 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.

#### **Healthcare Workers**

#### **Limited Vaccination Deadline Extensions**

Individuals who work in hospitals and long-term care facilities (LTCFs) are required to receive at least one dose of vaccine in a two-dose vaccination series or the single dose in a one-dose series by October 15, 2021 and comply with all Interim Precautions described below. The second dose of a two-dose vaccine must be received by November 15, 2021.

All other Healthcare Workers and Healthcare Institution Workers (except for those working in hospitals or LTCFs) are required to receive at least one dose of vaccine in a two-dose vaccination series or the single dose in a one-dose series by October 22, 2021 and comply with all Interim Precautions described below. The second dose of a two-dose vaccine must be received by November 22, 2021.

All workers hired after the vaccination deadline for their group as designated above must receive at least one shot in a two-dose series or a single dose in a one-dose series before beginning in-person shifts. Final doses must be received within one month of hire.

### **Interim Precautions Required**

All Healthcare or Healthcare Institution Workers who have received only the first dose of the vaccine by the first dose deadline outlined above (October 15 or 22, depending on institution type), but have not completed the vaccine series may continue working while awaiting full vaccination after the deadline if:

- the individual provides documentation to their employer of a scheduled second dose with a pharmacy, community partner, or other medical provider, and;
- the individual submits to regular testing with at least two tests per week of either rapid (antigen or molecular) or PCR depending upon frequency of their shifts as detailed below until they are fully vaccinated, and;
- the individual double masks or wears an N95 or similar respirator while working until the two-week period following the final shot has elapsed.

Final dose of two dose vaccines MUST be completed by the final dose deadline to qualify for this time limited allowance.

### **Limited Home-Based Services Enforcement Exception**

The Department will not enforce the Healthcare Worker Vaccine Mandate against certain individuals providing care for a Relative as defined below UNTIL the end of calendar year 2021 OR until federal mandates require vaccinations for these individuals, whichever occurs first. Such individuals should be treated as employees who have received a valid religious or medical exemption.

#### **Plain Language Summary:**

This temporary and discretionary non-enforcement applies to nonprofessional individuals employed as a Direct Care Worker or Direct Support/Service Professional actively aiding a family member in the family member's home.

#### **Full Summary:**

The 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"), effective August 16, 2021, will not be enforced against a Direct Care Worker employed by a Pennsylvania licensed Home Care Agency, Home Care Registry, or Participant or a Direct Support/Service

Professional employed by a Provider or Participant to provide Personal Assistance Services (Instrumental Activities of Daily Living or Activities of Daily Living) or Respite Services to a Relative in such Relative's home until December 31, 2021 or until such time as the Centers for Medicare and Medicaid Services (CMS) issue federal directives on the application of mandatory vaccines to such individuals, whichever occurs first.

The term "Direct Care Worker" may have the definition provided in 28 Pa. Code § 611.5 or 55 Pa. Code § 52.3, depending upon employing entity and services provided.

The term "Direct Support/Service Professional" is not codified but used in reference to services provided under 55 Pa. Code § 6100.143

The terms "Home Care Agency" and "Home Care Registry" have the definitions provided under 28 Pa. Code § 611.5.

The terms "Provider", "Participant", "Personal Assistance Services" and "Respite Services" have the definitions provided in 55 Pa. Code § 52.3

The term "Relative" has the definition as provided in 6 Pa. Code. § 20.2

### **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. If the individual's test is within 72 hours of their work shifts for the week, one test may suffice.
- 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 masking for all. Unvaccinated individuals must double mask or wear an N95 or similar respirator while working.

### Record Keeping

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

Vaccination records must include the following information: numbers of fully, partially, unvaccinated and vaccination status unknown staff/contractors; numbers of staff/contractors with medical or religious exemptions; refused exemption requests; and numbers and percentages of turnover due to vaccination mandates, if known. Contracting agencies are responsible for reporting vaccination status of their covered workers to the Healthcare Institution and must maintain all records relating to vaccination status. Please note, this information must not include any confidential information such as names, dates of birth, social security numbers, or employee identification numbers.

If the employer is performing the testing, results need to be reported to PDPH. Both positive and negative COVID results must be reported within 24 hours of result. Results can be reported directly 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 the employer is not performing the testing, they do not need to report the results to PDPH. The results will be reported directly to PDPH by the lab or provider. The employer should keep a record of these results and make them available to PDPH upon request.

If the employee is doing an at home over-the-counter test, all positive and negative COVID test results should be reported by the employee within 24 hours of result to PDPH via [REDCap Database](#).

### Extended Deadline

Employers of healthcare workers must complete a written policy detailing how the employer will verify compliance with extended deadlines. Policies must be kept on file and made available for inspection and/or response to requests for information from PDPH. Electronic verification of compliance MUST be self-provided via REDCap survey by the date indicated on the survey, to be separately provided.

### Enforcement

Beginning October 16th, 2021, the Department will exercise its inspection authority to review records per Chapter 6-500, Section 501 of the Philadelphia Code. These records must be made available to the Department upon request as dictated by Chapter 6-200, Section 202(4) of the Philadelphia Code and per the June 2020 Sixth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (“Mandatory Data Reporting Order”).”

Records will be examined via a future scheduled submission calendar and/or unannounced in-person or electronic compliance audits of records by Department personnel. Method and timeline for unannounced audits will be determined in part by information reported to the (CDC) National Healthcare Safety Network (NHSN) system and may be required in response to complaints received against an institution. Failure to comply may result in remediation planning or immediate penalties. These may include fines up to \$2000 per violation, per day, under Chapter 6, Section 103(2) of the Philadelphia Code, depending on the severity of the failure and the level of risk to patients, clients, staff, and the general public.

### FAQs

#### **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.

The employee should report positive and negative COVID test results within 24 hours of testing to PDPH via [REDCap Database](#).

**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 within 72 hours of the day (s) 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 Direct Care Workers and Direct Support/Service Professionals (home health care workers)?**

Yes. Direct Care Workers and Direct Support/Service Professionals 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 testing 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.

If the employer is performing the testing, results need to be reported to PDPH. Both positive and negative COVID results must be reported within 24 hours of testing. Results can be reported directly 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 the employer is not performing the testing they do not need to report the results to PDPH. The results will be reported directly to PDPH by the lab or provider.

If the employee is doing an at home over-the-counter test, he or she should report positive and negative COVID results within 24 hours of testing to PDPH via a [REDCap Database](#).

### **Resources:**

August 16, 2021 Regulation: [https://hip.phila.gov/Portals/\\_default/HIP/HealthAlerts/2021/PDPH-HAN\\_Alert\\_6\\_HCWXVaxMandate\\_08.25.2021.pdf](https://hip.phila.gov/Portals/_default/HIP/HealthAlerts/2021/PDPH-HAN_Alert_6_HCWXVaxMandate_08.25.2021.pdf)

August 25, 2021 Health Alert: [https://hip.phila.gov/Portals/\\_default/HIP/HealthAlerts/2021/PDPH-HAN\\_Alert\\_6\\_HCWXVaxMandate\\_08.25.2021.pdf](https://hip.phila.gov/Portals/_default/HIP/HealthAlerts/2021/PDPH-HAN_Alert_6_HCWXVaxMandate_08.25.2021.pdf)

CDC Contraindications and [Precautions](#)

How to Confirm [Proof](#) of Vaccination

