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.

This guidance document was last updated October 24, 2022. This update includes changes to the definitions of healthcare workers and healthcare institutions, as well as vaccination and screening testing requirements. Changes are underlined for quick reference.

The City of Philadelphia 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. Certain settings and individuals previously required to comply with the Vaccine Mandate Regulation are excluded from the vaccination requirements. Routine screening testing of exempt individuals is no longer required. These requirements are modified according to the Philadelphia Department of Public Health's (the Department) recommendations. Any changes will be announced via traditional print and social media, posted on the Department's website, and communicated in Health Action Notifications (HAN).

Covered healthcare workers and individuals will be required to wear at least a surgical mask that fully covers their nose and mouth while providing patient facing care or in patient facing settings. [1]

All symptomatic individuals must continue to test, regardless of vaccination status. See Sections on **Vaccination Records** and **Result Reporting** for further information.

DEFINITIONS

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

Fully vaccinated: Having completed both doses in an initial two-dose COVID-19 vaccination, or a single dose in an initial one-dose COVID-19 vaccination approved by the FDA.

Healthcare Institution: Any entity that employs or otherwise coordinates the services of Covered Healthcare Workers at a location where in-person Healthcare Related Services are provided or available, and locations that are primarily retail-oriented.

Covered Healthcare Workers: An individual, including a self-employed individual, who is patient-facing at a Healthcare Institution where in-person Healthcare Related Services are provided or available to patients or clients. Patient-facing means to deliver healthcare or healthcare related services as part of regularly performed duties or other face-to-face interactions with clients or patients as an employee, staff member, volunteer or supervised student/intern/trainee. Individuals working exclusively in personal care or private homes with no other contacts with patients at another location where Healthcare Related Services are provided are excluded from this definition.

Healthcare Related Services: In-person services provided to or available at a location, as listed below.

- Inpatient or outpatient medicine

[1] Unvaccinated individuals who are patient-facing or who meet the definition of a Covered Healthcare Worker and who are employees of or contractors with the City of Philadelphia are required to must double mask or wear an N-95 or similar respirator while working per the September 27, 2022 Updated COVID-19 Safety Protocols for City Employees.

- Behavioral health
- Dental
- Nursing
- 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

Personal Care Home: Residences that provide shelter, meals, supervision and assistance with Personal Care Home Services, typically for older people, or people with physical, behavioral health, or cognitive disabilities who are unable to care for themselves but do not need nursing home or medical care.

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

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
    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

Covered Healthcare Workers

- All Covered Healthcare Workers performing duties in the City of Philadelphia: Individuals who are not required to be vaccinated include only who those are not patient-facing either through their direct work or the setting of their work
    1. Individuals who perform their duties completely through telework.
    2. Individuals who are employed at a retail establishment that provides only incidental healthcare related services, such as pharmacies and grocery store
    3. Individuals who are employed by an excluded Healthcare Institution;
    4. Individuals who do not provide healthcare or healthcare related services to patients or clients; and do not work in a building where patients or clients receive such services, such as a medical billing specialist or appointment setter.
- Covered Healthcare Workers are required to receive at least one dose of vaccine in an initial two-dose vaccination series or a single dose in an initial one-dose series before beginning in-person work. Second doses must be received within 8 weeks of hire or the first day of in-person work. Covered Healthcare Workers and Healthcare Institutions must comply with all Interim Precautions described below.
- All other Healthcare Workers are required to receive at least one dose of their initial vaccine series prior to beginning employment.

Interim Precautions Required:

All Covered Healthcare Workers who have received only the first dose of the initial series before beginning in-person work may continue working 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 double masks or wears an N95 or similar respirator while working until the two-week period following the final shot has elapsed.

All doses in the initial series MUST be received by eight weeks after the first day of employment to qualify for this time limited allowance.

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 Covered Healthcare Worker who is granted an exemption must strictly follow the conditions for exemption. Healthcare Institutions are required to keep records of vaccination status of all vaccinated individuals and exemptions requested. Records must be made available to PDPH upon request.

Self-employed Covered Healthcare Workers must carefully document the need for exemption and ongoing compliance with conditions as set forth below under “Conditions for Exceptions.”

Medical

The Covered Healthcare 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 Covered Healthcare 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.

CONDITIONS

1. **Testing:** Screening testing is no longer required. Institutions may choose to conduct continued asymptomatic screening testing. Typically testing could be done 1-2 times per week.
    a. Anyone with even mild symptoms of COVID-19, regardless of vaccination status, should receive a viral test as soon as possible.
    b. Asymptomatic patients with close contact with someone with SARS-CoV-2 infection, regardless of vaccination status, should have a series of three viral tests for SARS-CoV-2 infection, each 48 hours apart. Further information on timing of intervals is available at https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html.
    c. Those with high-risk exposures and those who have tested positive must test again if symptoms develop at any time after previous infection resolves. See our map of testing sites at https://www.phila.gov/covid-testing-sites/. If unable to find a test, a symptomatic employee should assume that they are positive and isolate. Further guidance is available for healthcare institutions based on the type of exposure and risk to the Covered Healthcare Worker at https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html.
    d. If the employer chooses to allow employees to use a rapid-antigen/at-home test, PDPH recommends that test should be performed on-site prior to a shift so the employer can verify the employee's result. **(See Vaccination Records and Reporting Results below**.)
    e. If positive, the individual must isolate. Read the CDC's guidance on quarantine and isolation for healthcare workers at https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html.

2. **Masking**: All healthcare institutions must continue to enforce masking for all with at least a surgical mask in all patient-facing areas and for all patient-facing services regardless of vaccination status.[2]
    a. Masking is not required for Covered Healthcare Workers when present in non-patient facing areas.

[2] *See* Footnote 1.

b. All Covered Healthcare Workers in any location must continue to mask upon returning to work after an exposure or isolation per CDC guidance.[3]

RECORD KEEPING

Vaccination Records

The institution must maintain vaccination records and exemption 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; and numbers of staff/contractors with medical or religious exemptions. 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.

Result Reporting

If the employer is performing rapid testing under a CLIA certificate or waiver, positive results need to be reported to PDPH 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 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, all positive and negative COVID test results should be reported to the employer and recorded into the testing logs and make available to PDPH upon request.

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 the August 4, 2022 AMENDMENT TO THE EMERGENCY REGULATION GOVERNING THE CONTROL AND PREVENTION OF COVID-19 MANDATING VACCINES FOR HEALTHCARE WORKERS AND IN HIGHER EDUCATION, HEALTHCARE, AND RELATED SETTINGS.

Records may 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, license suspensions, and other civil remedies as provided for under Section 6-103 of The Philadelphia Code, provided that each day a violation of this Regulation continues constitutes a separate violation.

[3] Per the Centers for Medicare and Medicaid Services, as of 09/23/22, universal masking is now optional in for residents and visitors in patient facing areas at facilities previously covered by the Bulletin, available at https://www.cms.gov/files/document/qso-20-39-nh-revised.pdf. **However, PDPH still requires masking for all individuals, regardless of vaccination status, while in patient facing areas.**

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. PDPH cannot verify at-home testing results. Healthcare Institutions should report positive at-home test results to the Department via REDCap Database. within 24 hours of receiving a positive test result from an employee, who must report positive test results within 24 hours of testing to their employer.

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 Institution" covers?

A Healthcare Institution is any location where healthcare or healthcare related services are available to or provided for individuals in person. This could be an in-patient or out-patient location. Locations where these services are incidental in nature, i.e., not the main part of the business, like a grocery's store's pharmacy, are not considered Healthcare Institutions.

Is there clarification regarding what "Healthcare Workers" covers?

Any individual involved in patient-facing healthcare or healthcare related services is a Covered Healthcare Worker. This includes any individual who works in an area where healthcare or 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 when the Covered Healthcare 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 customer service specialist at the medical billing office of a major healthcare system, who works in a building where no patient care takes place is not in a patient-facing role and would not be considered a Covered Healthcare 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.
- However, in the preceding example the pharmacist within the pharmacy would be considered a Covered Healthcare Worker.

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)?

Direct support professionals and other individuals providing services under a Home Based Care Services Waiver are not Covered Healthcare Workers for the purposes of this mandate.

Does this mandate apply to contract employees?

Yes. Contract employees of Health Institutions are included if they can be considered Covered 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, 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 vaccination and testing results? Who will be checking from the city?

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

If the employer is performing rapid testing under a CLIA certificate of waiver, positive results need to be reported to PDPH 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 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 COVID results to their employer within 24 hours of testing and results should be made available to PDPH upon request.

Resources:

October 13, 2022 Regulation

September 4, 2022 Regulation

August 4, 2022 Regulation

August 25, 2021, Health Alert

August 16, 2021 Regulation

CDC Contraindications and Precautions

How to Confirm Proof of Vaccination