



ATTORNEYS AT LAW

California Vaccination Order for Health Care Workers

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In what may cause significant pushback and/or concern in the health care staffing industry, by way of State Public Health Officer Order, dated August 5, 2021 (the “Order”), the California Department of Health has required “[a]ll workers who provide services or work in facilities”, as defined under the Order, to be fully vaccinated by September 30, 2021. For purposes of the Order, health care facilities include:

- i. General Acute Care Hospitals
- ii. Skilled Nursing Facilities (including Subacute Facilities)
- iii. Intermediate Care Facilities
- iv. Acute Psychiatric Hospitals
- v. Adult Day Health Care Centers
- vi. Program of All-Inclusive Care for the Elderly (PACE) and PACE Centers
- vii. Ambulatory Surgery Centers
- viii. Chemical Dependency Recovery Hospitals
- ix. Clinics and Doctor Offices (including behavioral health, surgical)
- x. Congregate Living Health Facilities
- xi. Dialysis Centers
- xii. Hospice Facilities
- xiii. Pediatric Day Health and Respite Care Facilities
- xiv. Residential Substance Use Treatment and Mental Health Treatment Facilities

The term “worker” is broadly defined under the Order as “all paid and unpaid individuals who work in indoor settings where (1) care is provided to patients, or (2) patients have access for any purpose. This includes workers serving in health care or other health care settings who have the potential for direct or indirect exposure to patients or SARS-CoV-2 airborne aerosols.

Workers include, but are not limited to, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, students and trainees, contractual staff not employed by the health care facility, and persons not directly involved in patient care, but who could be exposed to infectious agents that can be transmitted in the health care setting (e.g., clerical, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing, and volunteer personnel).”

Workers may only be exempt from the vaccination requirement by either providing a signed declination form stating that s/he is declining vaccination based on religious beliefs or that the worker is excused from receiving any COVID-19 vaccine due to qualifying medical reasons. To be eligible for exemption for qualifying medical reasons, the worker must also present a written statement from a licensed medical professional stating the worker qualifies for the exemption and the time period of the worker’s inability to receive the vaccine, if known (this statement should not state what the underlying condition is).

For workers who are deemed exempt, they must meet the following requirements when entering or working in a covered facility:

a. Test for COVID-19 with either PCR or antigen test that either has Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services. Testing must occur twice weekly for unvaccinated exempt workers in acute health care and long-term care settings, and once weekly for such workers in other health care settings.

b. Wear a surgical mask or higher-level respirator approved by the National Institute of Occupational Safety and Health (NIOSH), such as an N95 filtering face-piece respirator, at all times while in the facility.

All records of vaccination status, exemptions, and, if applicable, all testing results, must be maintained by the facility pursuant to the Order.

This Order will undoubtedly cause more background work and headaches for staffing providers.

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