

Federal Mandate for COVID-19 Vaccination of Health Care Staff

Information for for PCAs & CHCs

Last Updated 10/21/2021

*This document is updated regularly as more information becomes available.
The most recent version is always available here (shorturl.at/zJOX8)*

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suggestions, etc.*

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INTRODUCTION

On September 9, President Biden announced that the Federal government will soon impose COVID-19 vaccination requirements on several types of employers, including health care providers such as FQHCs. These mandates are expected to go into effect sometime in October.

At present, there are many unanswered questions about how the vaccination requirements will be implemented. To date, the only information that has been shared publicly is [the initial White House announcement](#) and [CMS press release](#). However, CMS has indicated that it plans to issue an Interim Final Rule (IFR) sometime in October, and it is expected that the IFR will resolve many of the outstanding questions.

This toolkit contains information and resources that are available to date, and will be updated as more information becomes available. It includes:

- A set of FAQs. For many of these questions, there are no answers yet. We are sharing these unanswered questions with the Administration and encouraging them to address them in the IFR.
- Links to resources to address vaccine hesitancy specifically among health care workers.
- Information around medical and religious exemptions, including how CHC providers can respond to patient requests.
- Sample documents from a CHC that has already announced a vaccine requirement.

Please let us know if you have suggestions for additional resources to add to this toolkit.

[FAQs](#)

Applicability

Is it certain that the vaccination mandate will apply to FQHCs?

Yes, FQHCs (and RHCs) are explicitly listed as being subject to the vaccine mandate. (See the [CMS announcement](#), which links to a [list of facilities to which the mandate applies](#).)

ADDED 10/1: For purposes of the vaccine mandate, are CHC staff considered Federal employees, Federal contractors, or neither?

For purposes of Federal vaccine requirements, CHC staff are neither Federal employees nor Federal contractors.

- CHCs who receive Section 330 grant funding are considered “Federal grantees”, which is legally very different from “Federal contractors.” (PCAs, HCCNs, and NTTAPs are considered “cooperative agreement holders”, which again is legally different from being a “Federal contractor.”)
- While the FTCA statute allows CHC employees to be “deemed” to be Federal employees, this deeming is limited to FTCA purposes; it does not extend to any other purposes (such as vaccine mandates).

Thus, the only Federal vaccine requirements that will apply directly to CHCs are those that apply to providers that participate in (or are otherwise regulated by) Medicare and Medicaid.

Will the mandate apply to FQHC staff and volunteers who have no direct contact with patients?

Yes – the mandate applies to all staff/volunteers, regardless of whether they have direct patient contact. This is stated explicitly in the White House announcement.

Will the mandate apply to CHCs’:

- **Board members?**
- **Staff/ contractors/ volunteers who work 100% remotely?**
- **Contractors? Does the answer vary based on whether or not:**
 - **The contract is funded with Federal funds?**
 - **The contractors work at locations where no patients receive care (e.g., constructing a new building)?**

We don’t have answers to any of these questions yet, and expect the IFR to provide clarity.

Will small private dental offices that don’t accept Medicare or Medicaid be subject to the mandate?

Again, we don’t have the answer to this question yet, and expect the IFR to provide clarity.

(We recognize that CHCs are concerned about potentially losing unvaccinated dental staff to such practices.)

Will the mandate apply to FQHCs in the Freely Associated States, who are not eligible for Medicare reimbursement?

We don't have the answer to this question yet, and expect the IFR to provide clarity.

Consequences for Non-Compliance

ADDED 10/11: What happens if our CHC doesn't comply?

While this would not happen immediately (see following question), a CHC that does not comply with the Federal vaccine requirements will ultimately become ineligible for reimbursement through either Medicaid or Medicare -- including Medicare Advantage plans. Also, since participating in Medicare and Medicaid is a program requirement under Section 330, this would likely lead to losing their 330 grant (or Look-Alike designation), FTCA coverage, and 340B eligibility.

UPDATED 10/11: How quickly & forcefully will the mandate be enforced?

We don't have a full answer to this yet. However, when HHS announced the vaccine mandate for nursing homes in July, it indicated that it would take a "progressive discipline approach." For example, it might take the following steps, in order, until the provider comes into compliance: send the provider a Notice of Non-Compliance; conduct an in-person survey; issue fines; deny Medicare payment; and then finally (if the provider is still out of compliance) rescind the provider's Medicare certification.

Testing Option?

Will FQHC staff have the option of doing weekly COVID testing instead of getting the vaccine?

It is very unlikely that a testing option will be offered. The [White House](#) and [CMS](#) announcements were noteworthy in that they did not mention a testing option for health care staff. In contrast, a testing option was discussed in the context of the mandates on Federal staff and employers with 100+ workers. (Federal staff had a testing option from July -September, but that is now being eliminated.) ***The notable lack of discussion about a testing option strongly implies that White House is not planning on offering this option for health care employers.*** While nothing is final until the IFR is released, most observers consider it unlikely that a testing option will be available for health care staff.

Effective Date

When will the vaccine mandate go into effect?

It's not yet clear, but the best guess is very soon after CMS issues the IFR, which is expected in October. The Federal government uses IFRs when they deem that a regulation should go into effect rapidly (without soliciting and responding to public comment first.) Note that CMS has stated that "Facilities across the country should make efforts now to get health care staff vaccinated to make sure they are in compliance when the rule takes effect."

It is also unclear whether the “effective date” will mean the date by which staff must have gotten the first shot (in the case of the Pfizer or Moderna two-shot regimen) or be completely vaccinated.

Exemptions

Can CHC staff request a medical or religious exemption from the vaccination requirement?

Yes. The Americans with Disabilities Act and Civil Rights Act allow for two types of exemptions, respectively:

- medical exemptions for certain disabilities
- religious exemptions for “sincerely held religious beliefs, practices and observances”.

Are CHCs required to automatically accept all employees’ requests for medical or religious exemptions?

No. CHCs have the right to evaluate and respond to each request individually. The [Federal government recently provided this guidance](#) to its agencies with regards to the vaccine exemptions:

“Determining whether an exception is legally required will include consideration of factors such as the basis for the claim; the nature of the employee’s job responsibilities; and the reasonably foreseeable effects on the agency’s operations, including protecting other agency employees and the public from COVID-19. Because such assessments will be fact- and context-dependent, agencies are encouraged to consult their offices of general counsel with questions related to assessing and implementing any such requested accommodations. Additional guidance on legally required exceptions will be forthcoming.”

What are considered valid reasons for a medical exemption?

As discussed below, the [CDC has identified three conditions that merit a medical exemption](#) from receiving a COVID-19 vaccine.

- Severe immediate allergic reaction to a previous dose of the COVID-19 vaccine
- Previous allergic reaction to Polyethylene Glycol (PEG)
- Previous allergic reaction to Polysorbate.

CHC medical staff may want to closely review exemption requests for reasons beyond these three.

UPDATED 10/15: How should CHCs evaluate and respond to requests for religious exemptions?

This issue is addressed at length in a 10/14 [article](#) from the Society for Human Resource Management, which is available here and pasted in full later in this toolkit. In brief, CHCs must approve religious accommodation requests if **both** of the following conditions are met:

- The employee’s religious belief is “sincerely held”, **and**
- The CHC can accommodate the employee’s request without “undue hardship.”

Determining whether an employee’s religious belief is “sincerely held” can be challenging (but not impossible -- see [article](#) for more information.) Because of these challenges, many employers simply focus on whether they can accommodate the request without “undue

hardship.” In determining whether an accommodation would create “undue hardship”, CHCs must consider:

- Whether the accommodation will impose a direct threat to others, including both employees and patients;
- The cost to the CHC of accommodating the request; and
- Whether any alternatives are available (e.g., allowing the employee to work from home.)

Please see this [article](#) for more information.

H.R. Issues

Added 9/30 Can Federal grant funds be used to provide cash incentive payments to staff to get vaccinated?

No. Grant funds may not be used for this purpose. Per a BPHC FAQ [here](#), grant funds cannot be used to provide anyone (staff or patients) cash incentive payments for getting vaccinated. H8F funds (aka American Rescue Plan funds) may be used “to offer certain incentive items” but may not be used for “cash gift cards, food”, etc. To be on the safe side, CHCs should also avoid using program income for these incentives payments.

Are health care employers required to provide staff with paid time off to receive and recover from the COVID vaccines?

Yes. OSHA requires that all health care employers provide “reasonable time and paid leave (e.g., paid sick leave, administrative leave) to each employee for vaccination and any side effects experienced following vaccination.”

Are CHCs required to keep information about employees’ vaccination status confidential?

Yes. Under the American with Disabilities Act, employers must keep confidential all information about employees’ medical status (even if the information is not related to a disability.) This includes not telling patients whether individual staff members have been vaccinated.

Will staff who leave the CHC because they chose not to get vaccinated be eligible for unemployment?

Per [Forbes magazine](#), most states will not provide unemployment to persons who left their jobs due to an unwillingness to comply with vaccine requirements, as this is considered a failure to abide by the employer’s rules and policies. However, unemployment eligibility rules vary from state to state, so *it is very important to check your state’s rules*. As stated in [this article from the Society for Human Resource Management](#) from the Society for Human Resource Management: “Some states may define ‘cause’ [*for denying benefits*] as any refusal to follow employer rules and policies, in which case a refusal to get vaccinated or to provide proof would likely be sufficient cause.... In a state with higher standards, such as gross misconduct, a refusal to comply with such a mandated safety rule may or may not rise to that level.”

What types of H.R. policies should CHCs develop related to the vaccine requirements?

CHCs should consider developing policies that:

- Indicate that being vaccinated against COVID is a condition of employment, and lists and alternatives that would be considered.
- Specify the consequences of failing to be vaccinated or adhering to an alternative.
- Outline processes for requesting medical and religious exemptions, including documentation that must be submitted.
- Discuss how to respond to employees who provide falsified vaccination records, or assist other employees in falsifying records.

CHCs are strongly encouraged to have their Board of Directors review and approve new policies related to vaccine mandates. For more information, see page 7 of [this memo prepared for NACHC by Feldesman Tucker](#).

In addition, CHCs should have processes in place to handle exemption requests confidentially and quickly, and to document the review process and conclusions. Please see the final section of this toolkit for templates you can use for these exemption processes.

NEW 10/14: How does the Administration expect health care employees to respond to the vaccine mandate?

On Thursday 10/7, the [White House issued a report](#) analyzing the impact of COVID vaccine mandates on various sectors of the economy. Regarding the health care sector, the reports states:

- These requirements have been shown to significantly increase vaccination rates among health care workers.
- “[V]accination requirements have not led to widespread resignations, as some predicted.” It lists several health care employers who imposed vaccine requirements, and cites how many staff ultimately left as a result. These resignation rates ranged from less than 0.03% (Medical University of South Carolina Health) to almost 4% (a rural health system in Kentucky).
- There is a long history of vaccine requirements in the US, dating back to the Continental Army. Currently, over 40% of hospitals have already announced their own vaccine requirements, and leading health care organizations support them.

For more information, see page 9 -11 of the [White House report](#).

Legal Issues

Updated 10/18: We are subject to state laws that are inconsistent with the planned Federal requirements on health care providers (e.g., bans on employment discrimination based on vaccination status, bans on requiring employees to prove their vaccination status.) How will these be reconciled?

This is still an open issue. Generally, Federal law preempts state law (unless the state law is more expansive.) While Federal regulations have the force of law -- and therefore preempt state laws -- there may still be questions about how the fact that providers choose to participate in Medicare/ Medicaid will interact with state law. These questions are not limited to health care providers. For example, Texas Governor Greg Abbott has issued an Executive Order banning private companies from imposing vaccine mandates. However, two major airlines --

Airlines and Southwest -- are headquartered in Texas and have imposed mandates on their employees. As of 10/18, it is still unclear how these various rules will interact with each other. [This article](#) provides more information.

What authority does the Federal government plan to use to impose vaccine requirements on health care providers?

CMS will make compliance with the vaccine mandate a “condition” of getting Medicare and Medicaid reimbursement; in other words, once the mandate is in effect, health care providers who do not comply will not be eligible to be paid by Medicare or Medicaid, even if they provide care for these patients.

CMS may also seek to extend the mandate to health care providers who do not receive Medicare or Medicaid reimbursement, but still are subject to CMS oversight. We expect more information about this in the IFR.

Have the courts approved vaccine requirements in the past?

Yes. The US Supreme Court has twice upheld the right of states to impose vaccine requirements on the general public. In 1905, the court allowed states to require that individuals be vaccinated against smallpox or face a fine. In 1922, it ruled that states could require a smallpox vaccination as a condition of attending school.

Is there a precedent for using Medicare reimbursement as a tool to address broader social challenges?

Yes. In 1966, the newly-established Medicare program announced that [hospitals must be fully desegregated to receive Medicare reimbursement](#). At the same time, teams of volunteers visited hospitals across the country to verify compliance with the requirement. “Within a few months” over 95% of US hospitals were desegregated.

Record-Keeping

What type of record-keeping will be required to demonstrate compliance?

No details are yet available on this issue; we expect the IFR to provide clarity.

Mandates on non-health care employers

Besides health care providers, what other employers will be subject to Federal vaccine mandates?

Per the Sept. 9 [White House announcement](#), COVID vaccine mandates will also apply to:

- All Federal employers and contractors. (This mandate does not apply to FQHCs, PCAs, and HCCNs as legally they are not classified as “Federal contractors”.) While Federal workers had the option of getting weekly testing – instead of getting vaccinated – from July through September, this option has now been eliminated.

- Employers with 100 or more workers. OSHA will soon be issuing a rule requiring these employers to require their employees to either be fully vaccinated **or** produce a negative test result on at least a weekly basis before coming to work.

Are PCAs or HCCNs subject to a vaccine mandate?

Unless the PCA or HCCN has at least 100 employees, it is not currently subject to a vaccine mandate. While government contractors are subject to a mandate, PCAs and HCCNs are technically classified as cooperative agreement holders – rather than contractors – and so are not subject to that mandate.

RESOURCES TO ADDRESS VACCINE HESITANCY AMONG HEALTH CARE STAFF

Here are some articles on strategies to address vaccine hesitancy among their health care workers, authored by:

- [A group of Black doctors](#)
- [Another pair of black doctors](#)
- [The American Medical Association](#)
- [Beckers' Hospital Review](#)
- [The Home Care industry](#)
- [Lowell CHC in Massachusetts](#)

RELIGIOUS EXEMPTIONS – Added 10/15

When May an Employer Reject a Religious Accommodation Request?

This article was published on October 14, 2021 by the Society for Human Resource Management, and is available here

An employer that requires vaccinations against COVID-19 must grant sincere religious accommodation requests, so long as they don't cause an undue hardship on the company. How can a business tell whether an objection to vaccination is based on a genuinely held religious belief and accommodate without creating an undue hardship?

"Because it is so hard to effectively challenge whether a particular belief is genuinely held, most employers will probably choose to skip the first step and go straight to the accommodation question," said Anthony George, an attorney with Bryan Cave Leighton Paisner in Denver.

Sincerely Held Religious Belief

The Equal Employment Opportunity Commission's (EEOC's) [guidance on COVID-19 and EEO laws](#) states that employers "should ordinarily assume that an employee's request for religious accommodation is based on a sincerely held religious belief, practice or observance."

"Under this guidance, employers should request additional information only in the rare cases when the employer has an objective basis to question whether the employee is sincere or to question whether the employee's belief is actually religious in nature," said Erika Todd, an attorney with Sullivan & Worcester in Boston.

"What is considered a religious belief under Title VII [of the Civil Rights Act of 1964] is very broad and difficult for employers to challenge," said Jill Cohen, an attorney with Eckert Seamans in Lawrenceville, N.J.

The EEOC has said in its [compliance manual on religious discrimination](#) that the definition of "religion" extends to traditional religions as well as religious beliefs that are "new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others."

"Beliefs pertaining only to economic, social, personal preferences, or political ideals typically are not considered religious for purposes of Title VII," Cohen said.

"If the objection refers to vague constitutional rights or political views or natural law, then the employer may reasonably conclude that the objection is not based in religion and may be overruled," George said.

"Concerns about vaccine safety, toxicity, efficacy, the trustworthiness of the media, government or the pharmaceutical industry are not religious beliefs," said Richard Reice, an attorney with Kauff McGuire & Margolis in New York City.

That said, an [employee with a disability](#) may need to be excused from a vaccine mandate.

"Employers [that] develop an objective basis for questioning either the religious nature or the sincerity of a particular belief are permitted to seek additional supporting information, as necessary, to make a reasonable business decision," said Joseph Vaughan, an attorney with Vaughan Baio & Partners in Philadelphia.

Employers should consider four factors established by the EEOC in its [questions and answers on religious discrimination in the workplace](#). These factors might undermine an employee's assertion that he or she sincerely holds the religious belief at issue and include whether:

- The employee has behaved in a manner markedly inconsistent with the professed belief.
- The accommodation sought is a particularly desirable benefit that is likely to be sought for secular reasons.
- The timing of the request renders it suspect—for example, it follows an earlier request by the employee for the same benefit for secular reasons.
- The employer otherwise has reason to believe the accommodation is not sought for religious reasons.

Employers sometimes question the sincerity of a religious belief by probing into whether the employee has acted contrary to the belief in the past, Cohen noted.

For example, some employees have requested accommodations to vaccinations based on the alleged use of fetal cell lines in the initial testing of the drug, she said. In response, [some employers](#) are asking these employees to certify that they similarly do not take other common medicines that use fetal cell lines in testing, such as Tylenol, Motrin and other [common drugs](#), Cohen stated.

Bona fide doubt that a religious belief is genuinely held might also exist if an employee who gets a flu shot every year now asserts that his or her religion prohibits piercing the skin, George said.

Nonetheless, Cohen said, if acting contrary to the religious belief is explainable, the inconsistency may not be enough to conclude that the religious belief is insincere.

Undue Hardship

Employers must try to reasonably accommodate workers with sincere religious beliefs if the employees ask for an accommodation, but they don't have to provide accommodations that would result in an undue hardship.

The standard for undue hardship is lower under Title VII—which prohibits religious discrimination—than under the Americans with Disabilities Act. Under Title VII, undue hardship

has been defined as more than a minimal burden, said Tracey Diamond, an attorney with Troutman Pepper in Princeton, N.J., and Philadelphia.

Because COVID-19 has killed more than 700,000 people in the U.S. "and unvaccinated workers are more likely to get COVID-19 and transmit COVID-19 to others, employers will have a compelling argument that allowing unvaccinated workers into the workplace would be an undue hardship," George said.

In making an undue hardship determination, "employers will want to consider the cost to the company and whether the accommodation will impose a direct threat to others," Diamond said

Even if unvaccinated entry into the workplace would be an undue hardship, that doesn't end the inquiry, George said. "The employer must still consider whether some alternative is possible."

Alternatives could include routine COVID-19 testing, mask wearing, social distancing and working remotely, noted Abby Warren, an attorney with Robinson & Cole in Hartford, Conn.

"Some employees may be entitled to a religious exemption to the vaccine mandate but still find themselves out of a job when the employer is unable to accommodate that exemption without it causing an undue hardship," said Helene Hechtkopf, an attorney with Hoguet Newman Regal & Kenney in New York City.

"Termination could be legally permissible, but there is a risk that dissatisfied former employees will pursue litigation," cautioned Erika Todd, an attorney with Sullivan & Worcester in Boston.

MEDICAL EXEMPTIONS

Writing medical exemptions for patients

Some CHCs are reporting that patients are asking their providers to write them medical exemptions for reasons that are not consistent with CDC guidelines (e.g., anxiety.) While there are no hard-&-fast rules that explicitly prevent providers from writing medical exemptions for reasons other than [the three contraindications listed by CDC](#), there are several reasons to think that writing such exemptions – particularly if a provider/ CHC writes a lot of them – could put both the provider’s medical license and the CHC’s 330 grant at risk. Here’s why:

BOTTOM LINE:

- There are no hard-&-fast rules that explicitly prevent a provider from writing a medical exemption for a COVID vaccine for reasons other than the three contraindications listed by CDC.
- However, there are several reasons to think that writing exemptions for reasons not approved by the CDC – particularly if a provider/ CHC writes a lot of them – would put both the provider’s medical license and the CHC’s 330 grant at risk.
- Therefore, a CHC cannot state that Federal/ state rules explicitly prohibit them from writing non-CDC-approved exemptions. However, a CHC can reasonably say that writing such exemptions puts their providers’ license and their Federal funding at risk.
- There is suggested language below that CHCs can post if their providers are getting pressured to write medical exemptions for reasons not approved by the CDC.

BACKGROUND:

The [CDC has identified three conditions that merit a medical exemption](#) from receiving a COVID-19 vaccine.

- Severe immediate allergic reaction to a previous dose of the COVID-19 vaccine
- Previous allergic reaction to Polyethylene Glycol (PEG)
- Previous allergic reaction to Polysorbate

BPHC rules – specifically [Chapter 5 of the Compliance Manual](#) – require that all employees, individual contractors, and volunteers who provide health care services on behalf of the CHC be granted privileges by the CHC. (See *Demonstrating Compliance, section d.*) Privileging procedures require verifying the clinical staff person’s “current clinical competence.” It is reasonable to assume that not following CDC guidelines on vaccine exemptions would raise

issues around a provider's "current clinical competence" - which in turn could place their 330 funding/status at risk.

Licensing rules: While there are no cut-&-dry prohibitions, there are many reasons to expect that providers who write medical exemptions for COVID vaccines for reasons not approved by the CDC place their licenses at risk – particularly if they write a lot of them. For example:

- There are examples of [doctors losing their license due to writing medical exemptions for non-COVID vaccines](#) that were not consistent with medical guidelines.
- The California Medical Board has stated that [“a physician who grants a mask or other exemption without... finding of a legitimate medical reason supporting such an exemption within the standard of care may be subjecting their license to disciplinary action”](#)
- The Federation of State Medicaid Boards has stated that [physicians and other healthcare professionals could risk losing their medical licenses if they spread COVID-19 vaccine misinformation](#) on social media, online and in the media. While posting misinformation publicly isn't quite the same as writing a medical exemption, it is certainly similar.

RECOMMENDATION: CHCs whose providers are getting pressured to write medical exemptions for non-CDC-approved reasons should consider posting the following in their clinical rooms, etc.:

“To protect our Federal funding and our doctors' medical licenses, *this CHC's* providers are permitted to write medical exemptions for the COVID-19 vaccine only to patients with a documented history of one of the three contra-indications approved by the Centers for Disease Control and Prevention:

- Severe immediate allergic reaction to a previous dose of the COVID-19 vaccine
- Previous allergic reaction to Polyethylene Glycol (PEG)
- Previous allergic reaction to Polysorbate.

“Patients who are seeking medical exemptions from receiving a COVID-19 vaccine for any other reason will not be able to receive an exemption from *this CHC.*”

CHCs might also create a standard Medical Exemption form that lists the three CDC-approved contraindications (listed above) and instructs the provider to check off which one applies and provide history info, such as:

CONTRA-INDICATION	CHECK IF APPLICABLE	HISTORY/ DATE
Severe immediate allergic reaction to a previous dose of the COVID-19 vaccine		
Previous allergic reaction to Polyethylene Glycol (PEG)		
Previous allergic reaction to Polysorbate		

SAMPLE DOCUMENTS FROM A CHC THAT HAS ALREADY ANNOUNCED A VACCINE REQUIREMENT

The following documents were shared by a CHC which announced in late July that it would make being vaccinated (or having an approved exemption) a condition of employment effective October 31. They include emails to staff, forms for requesting exemptions, FAQs for staff, etc. As of September 21, this CHC is steadily increasing the percentage of its staff who are vaccinated. CHCs are welcome to adapt these emails and forms for their own use.

Initial Announcement of Vaccine Requirement

Name of CHC has a duty to provide and maintain a workplace that is free of known hazards and to safeguard the health of our employees, their families, and the patients and communities we serve. We know that the risk of transmission, infection, and death from the COVID-19 virus is significantly reduced through vaccination. We also know that increasing the number of people vaccinated will decrease the potential for future and potentially more concerning variants of the virus to emerge. Therefore, in support of our commitment to employee health and wellness, and the health of the community, we will be phasing in the following standards related to vaccination against COVID-19:

PHASE ONE:

Effective August 9, 2021: New employees must have initiated the vaccination process prior to their start date or initiate vaccination upon onboarding. Vaccination must be completed 45 days following their start date in order to continue their employment with *CHC*.

Effective August 16, 2021: Vaccination against COVID-19 will become an Employee Health Standard at *CHC*.

- We encourage all unvaccinated employees to initiate vaccination against COVID-19 on or before this date.
- Employees may reach out to Employee Health Coordinator (*give name*) to assist in scheduling their vaccination.
- Notice of vaccination (initiation and completion) must be provided to Employee Health Coordinator (*give name*) who will be responsible for validating the completion of the vaccination process.
- *CHC* will allow for medical and religious exemptions from the COVID-19 vaccine requirement, in accordance with all applicable laws and regulations.
 - A medical exemption may be requested through (*give name*), Chief Medical Officer, and a Medical Review Committee has been established to evaluate those requests.

- Requests for religious exemptions may be submitted through (*give name*) and will require membership in an established religion that has publicly announced prohibition against their members receiving the COVID-19 vaccine.
- Any employee that received a medical or religious exemption will be subject to weekly COVID-19 PCR testing.
- Any employee that has not received a medical or religious exemption and is unwilling to comply with the COVID-19 vaccine requirement will be subject to weekly COVID-19 PCR testing. Weekly testing of unvaccinated employees will be the standard at any time local infection rates are elevated.

PHASE TWO:

October 31, 2021: As of this date vaccination against COVID-19 will become a Condition of Employment for all *CHC* employees excluding those with an approved medical or religious exemption. Weekly testing of exempt employees will be the standard at any time local infection rates are elevated.

In closing, we value all our employees and certainly hope that nobody will choose to leave due to this Employee Health Standard. We are hoping that providing this schedule for phasing in the COVID-19 vaccination as a condition of employment allows everyone time to address any questions and concerns that have thus far prevented you from becoming vaccinated. Please reach out to *CMO* or any member of the leadership team and we will be happy to provide you with resource material or put you in touch with other medical professionals who may help you in making this important decision.

FAQs for staff on COVID-19 Vaccination as a Condition of Employment

Does *CHC* plan to continue paying the \$300 Employee Wellness Incentive to employees who complete the vaccination process?

As previously announced, up until October 31, 2021 any employee who provides documentation verifying that they are fully vaccinated will receive a \$300 Employee Wellness Incentive. Evidence of being fully vaccinated should be submitted to Employee Health Coordinator, *give name*. This Wellness Incentive will expire on October 31, 2021 when vaccination against COVID-19 becomes a condition of employment.

If an individual isn't vaccinated by October 31st and is not exempt, does that mean they can no longer be employed with *CHC*?

Yes. Once COVID-19 vaccination becomes a condition of employment (October 31st), an employee who chooses not to be vaccinated against COVID-19 and has no medical or religious exemption would not be meeting that condition of employment and therefore would not be eligible for continued employment with *CHC*. We hope no one makes that choice, which is why we are allowing over 60-days for people to make their decision about vaccination.

Is there something I can sign stating that I didn't want the vaccine and only got vaccinated to stay employed?

We are not forcing anyone to get vaccinated against their will. In good conscience as a health care organization, we are implementing a policy where vaccination is a condition of employment. If an employee is not willing to become vaccinated and does not consent to that vaccination of their own free will, that is their choice. However, the consequence of that choice is that they are no longer eligible to remain employed. Given that, we would not allow an employee to sign a statement indicating that they were vaccinated against their will.

If an employee is terminated for not being vaccinated, do they qualify for unemployment?

It is important to clarify that an employee who chooses not to be vaccinated and does not qualify for a medical or religious exemption is choosing not to fulfill a condition of employment. Therefore, the employee is not being terminated; rather, the employee is choosing not to fulfill the requirements for employment and are voluntarily relinquishing their ability to remain employed at *CHC*. An employee may file for unemployment anytime they separate from an employer. Determination of eligibility will be made by the South Carolina Department of Employment and Workforce.

If an employee resigns because they are not willing to get vaccinated, can they ever be rehired?

Like any employee in good standing who voluntarily separates from *CHC* and works a two-week notice, you would be eligible for rehire; however, eligibility for rehire does not guarantee

reemployment or priority consideration in the hiring process. If rehired, like all new employees, vaccination against COVID-19 would be a condition of employment.

If a staff member chooses to give notice, will they receive a payout of their annual leave if they complete that notice?

Consistent with *CHC's* employment policies, an employee who voluntarily terminates their employment and works the required notice will be eligible for a pay out of accrued annual leave up to the maximum hours allowable.

If a staff member has "natural immunity" as defined by the CDC is that acceptable in place of the vaccine until they are no longer naturally creating antibodies?

No. Studies have shown that those who had COVID early on are at higher risk of hospitalization and death. Vaccination is still recommended. The more recently you acquired COVID-19 infection, the less chance of hospitalization or death, but the best overall protection is previous infection with COVID plus the COVID vaccine.

Will students and others who do rotations in our practices be required to be vaccinated against COVID-19?

It is our expectation that individuals coming into any of our locations for educational experience would be vaccinated against COVID-19. This will be a consideration when applications are submitted to Human Resources.

Can you clarify the weekly testing requirement for those who choose not to become vaccinated or who receive medical or religious exemptions?

First, we would like to clarify that the weekly testing requirement would be a PCR test, not an antigen test. Beginning August 16th and up until the time when being fully vaccinated against COVID-19 becomes a condition of employment (October 31st) the weekly testing requirement applies to all unvaccinated individuals including those who have requested or received medical or religious exemption. Beginning November 1st, when vaccination is a condition of employment, the weekly PCR testing will be required for those who are unvaccinated due to a medical or religious exemption only when local infection rates are elevated.

Who can I hold responsible if I have side effects from the vaccine that require medical treatment?

All vaccines, prescription medication, OTC medicines, dietary supplements, and even some foods may result in unexpected side effects; however, through informed consent and personal choice, absent any negligence on the part of another party, an individual assumes that risk. There is no one that will be held responsible if you have an unexpected side effect. If a reaction to the vaccine required medical treatment, that cost could be processed through your insurance like any other qualifying medical expenses.

If a staff member is fully vaccinated and later develops COVID, will they qualify for FFCRA leave or will they have to use their sick time? Or can they take it without pay?

A vaccinated person who becomes infected with COVID-19 would be eligible to apply for emergency medical leave under the FFCRA. However, the FFCRA is scheduled to expire on September 31, 2021, after which employees may use any accrued paid time off – sick, annual, or floating holidays. If the employee has no remaining paid leave available, they may request leave without pay through their supervisor.

As staff are getting vaccinated if they experience side effects like fever and flu-like symptoms will they receive FFCRA paid leave?

Side effects from receiving the COVID-19 vaccination would be a qualifying event for emergency medical leave under the FFCRA. However, the FFCRA is scheduled to expire on September 31, 2021, after which employees may use any accrued paid time off – sick, annual, or floating holidays. If the employee has no remaining paid leave available, they may request leave without pay through their supervisor.

MRNA has been around for 30 years? Why has it never been used in a vaccine before?

mRNA was first investigated as a possible alternative to conventional vaccines in a paper published in 1990. At that time, it wasn't considered very feasible for a vaccine due to problems with the mRNA breaking down and an inefficient delivery system. It took modern technological developments to make the mRNA stick around long enough in the body for it be usable as a vaccine. Oncology was the first area to start testing mRNA vaccines (vaccines against cancer) back in 2009. 33 clinical studies using mRNA vaccines for oncology have been initiated since 2009. These studies continue but in 2019 most efforts turned towards using the technology for COVID vaccines. Phase I and phase 2 human trials on CMV and flu mRNA vaccines have been going on and/or completed since around 2015. COVID vaccines are the first mRNA vaccines to be produced and tested in large-scale phase III studies.

Where can *CHC* staff get vaccinated? Will there be a day set up for staff? Will they need to clock out?

CHC wants to make vaccination as convenient as possible for our employees. Efforts are underway to make sure all three vaccines are available so that an employee may receive the vaccine of their choice. If you choose to be vaccinated on a day you are scheduled to work, you may do so on work time, or "on the clock." Finally, there is no cost to the employee for being vaccinated. For assistance in scheduling your vaccination, please contact Employee Health Coordinator *give name*.

Process for Seeking a Medical Exemption

Requirements and Instructions: Effective October 31, 2021, vaccination against COVID-19 is a condition of employment with [HEALTH CENTER NAME]. A medical exemption may be granted upon receipt of a completed form (below) and supporting documentation when requested.

- Requests for a medical exemption will be reviewed by and adjudicated by an independent review committee comprised of multidisciplinary [HEALTH CENTER NAME/ACRONYM] providers.
- Priority will be given to the advisory opinions of established and credible medical professional organizations including but not limited to the American Academy of Pediatrics, American Academy of Family Physicians, American College of Obstetrics and Gynecology, Society for Fetal and Maternal Health, and the Centers for Disease Control.
- In those cases where a medical exemption is not consistent with the advisory opinion of an established and credible medical professional organization, the request must be supported by an attestation of need signed and certified by a licensed health care provider, not related to the submitter, and whose specialty is appropriate to the associated condition.
- Documentation related to the medical condition for which any exemption is requested may not be more than 3 months old.
- Medical exemptions expire when the medical condition(s) contraindicating COVID-19 vaccination changes in a manner which permits vaccination. The assigned expiration is at the sole determination of [HEALTH CENTER NAME/ACRONYM].
- While [HEALTH CENTER NAME/ACRONYM] will carefully review all requests for medical exemptions, approval is not guaranteed.

[HEALTH CENTER NAME/ACRONYM] will carefully review each request and determine if the request should be granted. After your request has been reviewed and processed, you will be notified by email if an exemption has been granted or denied. If the approved exemption contains an expiration, you will be expected to complete the requirement at that time. Should the condition continue, or a new vaccination contraindication occur, a new request with updated documentation is required. Decisions are final and not subject to appeal. Individuals whose requests have been denied are permitted to reapply if new documentation and information should become available.

Individuals with an approved exemption may be required to comply with COVID-19 testing and other preventive requirements as specified by [HEALTH CENTER NAME/ACRONYM].

Steps to request a medical exemption:

- Read the CDC COVID-19 Vaccine Information;
- Complete and sign the following page of this form;
- Have your Licensed Health Care Provider complete the provider section of this form if you feel it will be required;
- Submit the completed documents.

Form for Requesting a Medical Exemption

Insert CHC's name/logo

To request an exemption from receiving the COVID-19 vaccination for medical reasons, please complete this form and return to the Chief Medical Officer at [EMAIL]

Employee Name: _____ Email: _____

Phone Number _____ Department/Location: _____

Incomplete submissions will not be reviewed. Be sure all forms and documentation are submitted at one time.

I am requesting an exemption from receiving the COVID 19 vaccine due to the following medical condition:

Please initial next to each of the statements below:

- I request exemption from the COVID-19 vaccination requirements due to my current medical condition described above. I understand and assume the risks of non-vaccination.
- I understand that as I am not vaccinated, to protect my own health, the health of my coworkers and of our patients, I will comply with assigned COVID-19 testing requirements and other preventive guidance.
- I acknowledge that I have read the CDC COVID-19 Vaccine Information.
- I understand that this exemption will expire when the medical condition(s) contraindicating vaccination changes in a manner which permits vaccination, as determined by [HEALTH CENTER NAME/ACRONYM] in reviewing the request.
- If required, I authorize my licensed health care provider to provide [HEALTH CENTER NAME/ACRONYM] with medical information about my medical exemption for the COVID-19 vaccination.
- I certify that the information I have provided in connection with this request is accurate and complete as of the date of this submission. I understand this exemption may be revoked and I may be subject to termination if any of the information I provided in support of this exemption is false.

Signature: _____ Date: _____

Health Care Provider Attestation for Medical Exemption

Attention Health Care Provider: A condition of employment with [HEALTH CENTER NAME/ACRONYM] is COVID-19 vaccination. _____ (insert patient’s name) is requesting a medical exemption from COVID-19 vaccination. A medical exemption may be allowed for certain recognized contraindications. Please certify below the medical reason that your patient should not be vaccinated for COVID-19 by completing this form and attaching available supporting documentation. Information provided on this form will be reviewed in consideration of the exemption request.

By signing and providing further information below, you are attesting that the physical condition of this patient or medical circumstances relating to the individual are such that vaccination is not considered safe. Please state, with sufficient detail for independent medical review, the specific nature and probable duration of the medical condition or circumstances that contraindicate vaccination with the COVID-19 vaccine.

Medical condition or circumstances:

Duration of the medical condition or circumstance and reason why vaccine is contraindicated:

Certification

I certify that _____ (patient name) has the above contraindication and support the request for a medical exemption from COVID-19 vaccination at [HEALTH CENTER NAME/ACRONYM].

Provider Information

Medical Provider Name: _____

Medical Provider Specialty: _____

Signature: _____ Date: _____

Provider License Number: _____

Practice Name: _____

Address: _____

Phone number: _____

Process for Requesting a Religious Exemption

Requirements and Instructions: Effective October 31, 2021, vaccination against COVID-19 is a condition of employment with [HEALTH CENTER NAME AND ACRONYM]. A religious exemption may be granted if the employee (1) holds sincere religious beliefs which are contrary to the practice of vaccination, (2) completes this form, and (3) provides the required documentation to support the exemption request.

[HEALTH CENTER NAME/ACRONYM] is committed to providing equal employment opportunities without regard to any protected status and a work environment that is free of unlawful harassment, discrimination, and retaliation. As such, [HEALTH CENTER NAME/ACRONYM] is committed to complying with all laws protecting employees' religious beliefs and practices.

When requested, [HEALTH CENTER NAME/ACRONYM] may provide an exemption/reasonable accommodation for employees' religious beliefs and practices which prohibit the employee from receiving a COVID-19 vaccine, provided the requested accommodation is reasonable and does not create an undue hardship for [HEALTH CENTER NAME/ACRONYM] or pose a direct threat to the health and/or safety of others in the workplace and/or to the requesting employee.

To request an exemption related to [HEALTH CENTER NAME/ACRONYM]'s COVID-19 vaccination requirements, please complete this form, and return it to Human Resources. This information will be used by Human Resources to engage in an interactive process to determine eligibility for and to identify possible accommodations. If an employee refuses to provide such information, the employee's refusal may impact [HEALTH CENTER NAME/ACRONYM]'s ability to adequately understand the employee's request or effectively engage in the interactive process to identify possible accommodations.

While [HEALTH CENTER NAME/ACRONYM] will carefully review all requests for religious exemptions, approval is not guaranteed. [HEALTH CENTER NAME/ACRONYM] will carefully review each request and determine if the request should be granted. After the request has been reviewed and processed, the employee will be notified, in writing, if an exemption has been granted or denied. The decision is final and not subject to appeal. Employees are permitted to reapply if new documentation and information should become available.

Individuals with an approved exemption may be required to comply with COVID-19 testing and other preventive requirements as specified by [HEALTH CENTER NAME/ACRONYM].

Form for Requesting a Religious Exemption

Insert CHC name/logo

To request an exemption from receiving the COVID-19 vaccination for religious beliefs and practices, please complete this form and return to HR at [INSERT NAME/EMAIL]

Employee Name: _____ Email: _____

Phone No: _____ Department/Location: _____

Please provide a statement explaining the religious beliefs or practices that necessitate this request for exemption. Please state why the COVID-19 vaccination requirement is contrary to your sincerely held religious beliefs or practices and provide examples of past adherence to these beliefs or practices:

If there is a religious leader or member willing to attest to the premise for this request for a religious exemption, please provide their contact information:

Name: _____ Telephone: _____

Email Address: _____

Please attach any written materials you may have that describe the religious beliefs or practices and their objections/prohibitions to the COVID-19 vaccine.

Verification and Accuracy: I have read and understand [HEALTH CENTER NAME/ACRONYM]'s Requirements and Instructions regarding religious exemption. My religious beliefs and practices which result in this request for a religious exemption are sincerely held. I verify that the information I am submitting in support of my request for an accommodation is complete and accurate to the best of my knowledge, and I understand that any intentional misrepresentation contained in this request may result in disciplinary action up to termination.

I also understand that my request for an accommodation may not be granted if it is not reasonable, if it poses a direct threat to the health and/or safety of others in the workplace and/or to me, or if it creates an undue hardship on [HEALTH CENTER NAME/ACRONYM].

Name (Print) _____

Signature _____ Date: ____/____/____

Email to Staff -- Six Weeks Prior to Effective Date

We are 44 days away from October 31, 2021, when our Employee Health Standard for vaccination against COVID-19 becomes a condition of employment.

Our policy states that effective October 31, 2021, vaccination is a requirement of employment for all CHC employees, which means that employees must be fully vaccinated by that date in order to meet all the requirements for continued employment. To fulfill that requirement, following are the dates by which vaccination should be initiated for each of the vaccines:

- **Moderna:** initiate on or before September 30 to comply with our policy.
- **Pfizer:** initiate on or before October 8 to comply with our policy.
- **Janssen (J&J single shot vaccine):** may be taken on or before October 31 to comply with our policy.

As I have stated in previous emails, CHC does not want to lose any of our valued employees; however, we must ensure adequate staffing to maintain access and fulfill our commitment to our patients and the communities served. Consequently, on Monday, September 20, 2021, we will begin the recruitment process to identify potential candidates to fill those positions in which the current employee remains unvaccinated, does not have an approved waiver or exemption, and does not initiate the vaccination process within the necessary timeframe outlined above. A list of the positions that will be posted beginning Monday is included at the conclusion of this email.

I'd like to address a couple other questions that have come up:

First, we have been asked if CHC will continue to provide a temporary waiver for those individuals with positive antibodies now that there is a federal mandate that prohibits testing as a substitute for vaccination. It is our plan to follow our existing policy unless or until we are advised or determine that it not fully compliant with the federal mandate.

Several people have made comments about the possibility of being "terminated" for not getting the COVID-19 vaccine. I want to be clear that employees whose employment ends as a result of not receiving the COVID-19 vaccine are not being terminated; they are voluntarily choosing not to fulfill a condition of employment and therefore, are not eligible for continued employment. This does not constitute a termination or "lay-off."

Finally, I have been asked if employees choosing not to fulfill this condition of employment will receive a pay-out for their accrued leave at the time of separation. I would direct anyone with that question to our personnel policies, or in the case of providers, your contract terms which remain in effect and should be mutually respected.

I hope this answers many of the lingering questions out there. Please don't hesitate to email me directly if you have more specific questions.

Positions that will be posted effective Monday 9/20/2021:

- 4 CMAs
- 2 CSRs
- 1 Custodial Technician
- 2 LPNs
- 2 NPs
- 1 PAT Parent Educator
- 4 Pharm Techs
- 1 Pharmacist
- 6 PSRs
- 2 RMAs
- 4 RNs

[1] <https://www.nashp.org/state-lawmakers-submit-bills-to-ban-employer-vaccine-mandates/>