

California Requires Vaccines or Regular COVID-19 Testing for Certain Healthcare Workers and State Employees

Article By:

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UPDATE:

This article has been updated pursuant to further guidance issued by the California Department of Public Health (CDPH) on August 9, 2021.

On July 26, 2021, the CDPH issued a new Order that impacts healthcare and state employers in California. The CDPH Order requires that almost all healthcare employers verify the vaccination status of all of their workers. The Order also requires workers who are not fully vaccinated (unvaccinated) to go through regular COVID-19 testing at specified intervals. These facilities also must have a plan in place for tracking verified worker vaccination statuses.

IN DEPTH

“FULLY VACCINATED”

Individuals are considered “fully vaccinated” two weeks or more after the second shot of the two-dose vaccines (Pfizer-BioNTech, Moderna or a vaccine authorized by the World Health Organization (WHO)) or two weeks or more after they have received a single-dose vaccine (Johnson and Johnson). Individuals must also have verified their vaccination status with the facility via a mode approved by the CDPH discussed further below.

WHAT WORKERS DOES THIS APPLY TO?

In the Order, “worker” is broadly defined to include (but is not limited to) the following: nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists and students and trainees. It also applies to contractual staff not employed by the healthcare facility as well as persons not directly involved in patient care but who could be exposed to infectious agents that can be transmitted in the healthcare setting (e.g., clerical, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing and volunteer personnel).

WHO THE ORDER APPLIES TO

The following Acute Health Care and Long-Term Care facilities must test unvaccinated workers at least biweekly and must provide them with respirators:

1. General Acute Care Hospitals
2. Skilled Nursing Facilities (including Subacute Facilities)
3. Intermediate Care Facilities

Facilities in “High-Risk Congregate Settings” and other “Health Care Settings” must test unvaccinated workers at least weekly; these facilities must also provide unvaccinated workers with surgical masks. The following are covered by these requirements:

1. Adult and Senior Care Facilities
2. Homeless Shelters
3. State and Local Correctional Facilities and Detention Centers
4. Acute Psychiatric Hospitals
5. Adult Day Health Care Centers
6. Adult Day Programs Licensed by the California Department of Social Services
7. Program of All-Inclusive Care for the Elderly (PACE) and PACE Centers
8. Ambulatory Surgery Centers
9. Chemical Dependency Recovery Hospitals
10. Clinics & Doctor Offices (including behavioral health, surgical)
11. Congregate Living Health Facilities
12. Dental Offices
13. Dialysis Centers
14. Hospice Facilities
15. Pediatric Day Health and Respite Care Facilities
16. Residential Substance Use Treatment and Mental Health Treatment Facilities

WHO THE ORDER DOES NOT APPLY TO

In guidance published on August 9, 2021, CDPH published further guidance on certain questions left open by the initial July 26, 2021 Order. TCDPH has clarified that the following facilities and/or offices are not covered under the Order:

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1. Acupuncture offices
 2. Chiropractic offices
 3. Naturopathic doctor offices
 4. Occupational therapy offices
 5. Optometry offices
 6. Outpatient physical, speech and occupational therapy offices
 7. Pharmacies
 8. Podiatry offices
 9. First aid offices (e.g., at a resort or theme park)

HOW TO VERIFY VACCINATION STATUS

The Order specifies the approved modes of vaccination verification, which include:

1. A COVID-19 vaccination record card issued by the US Centers for Disease Control and Prevention, or a WHO Yellow Card that includes the name of the person vaccinated, the type of vaccine provided and the date that the last dose was administered;
2. A photo of a vaccination record card as a separate document;
3. A photo of the vaccination record card stored on a phone or electronic device;
4. Documentation of a COVID-19 vaccination from a healthcare provider;
5. A digital record that includes a QR code that when scanned by a SMART Health Card reader displays the reader client name, date of birth, vaccine dates and vaccine type (the QR code must also confirm the vaccine record as an official record of the state of California); OR
6. Documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.

TESTING MUST BE FREE FOR WORKERS

CDPH has provided further clarification that health plans are obligated to cover the cost of COVID-19 testing in these settings. Moreover, health insurers are also required to waive cost sharing amounts for certain COVID-19 related screening and testing.

The Department of Health Care Services (DHCS) also covers both COVID-19 viral and serologic (antibody) tests at no cost to Medi-Cal beneficiaries. Pursuant to CDPH guidance, this includes all medically necessary viral and serologic testing as well as serologic (antibody) tests ordered for infection control purposes (e.g., pre-operative screening or planned hospitalizations).

Practically speaking, to the extent any unforeseen reasonable and necessary costs are incurred by the employee when obtaining required COVID-19 testing, the employer may be obligated to reimburse such expenses pursuant to California Labor Code section 2802.

DEADLINE FOR COMPLIANCE

This Order goes into effect on August 9, 2021, at 12:01 am. Facilities must be in full compliance by August 23, 2021.

The full Order is found

here: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx>

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