

New COVID-19 Vaccination Requirements for California State Employees and Health Care Workers

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Governor Gavin Newsom and the California Department of Public Health (“CDPH”) recently issued new public health requirements in response to the increasing number of hospitalizations and ICU patients in California caused by the highly contagious COVID-19 Delta variant.

On July 26, 2021, [Governor Newsom announced](#) that state employees, health care workers, and workers at high-risk congregate settings such as residential facilities, homeless shelters, and jails will be required to either (1) submit to COVID-19 testing at least once per week and wear proper Personal Protective Equipment or (2) provide evidence of full vaccination. Pursuant to the [CDPH Guidance for Vaccine Records Guidelines & Standards](#), only the following may be used as proof of vaccination:

- COVID-19 Vaccination Record Card which includes name of person vaccinated, type of vaccine provided and date last dose administered);
- A photo of a Vaccination Record Card as a separate document;
- A photo of the client’s Vaccination Record Card stored on a phone or electronic device;
- Documentation of COVID-19 vaccination from a health care provider;
- Digital record that includes a QR code that when scanned by a SMART Health Card reader displays to 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
- Documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.

Governor Newsom’s policy took effect for state workers on August 2 and for health care workers and congregate facilities on August 9. However, health care facilities have until August 23 to come into

full compliance.

Building on Governor Newsom's policy, on August 5, 2021, [the CDPH ordered](#) that health care workers are generally required (with limited exceptions explained below) to receive COVID-vaccination by September 30, 2021. Under the order, a "worker" is defined 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 order applies to all such workers in the following settings:

- General Acute Care Hospitals,
- Skilled Nursing Facilities (including Subacute Facilities),
- Intermediate Care Facilities,
- Acute Psychiatric Hospitals,
- Adult Day Health Care Centers,
- Program of All-Inclusive Care for the Elderly (PACE) and PACE Centers,
- Ambulatory Surgery Centers,
- Chemical Dependency Recovery Hospitals, Clinics & Doctor Offices (including behavioral health, surgical),
- Congregate Living Health Facilities,
- Dialysis Centers,
- Hospice Facilities,
- Pediatric Day Health and Respite Care Facilities, and
- Residential Substance Use Treatment and Mental Health Treatment Facilities.

For workers at these facilities to be exempt from the vaccine requirement, they must provide a signed declination form stating that they are declining vaccination either: (1) based on religious beliefs, or (2) due to qualifying medical reasons verified by a written statement signed by a physician, nurse practitioner, or other licensed medical professional (but the statement should not describe the underlying medical condition or disability). However, exempt workers must: (1) wear a surgical mask or a higher-level respirator at all times in the facility and (2) receive COVID-19 testing at least once a week and up to twice a week if they work in acute health care and long-term care settings.

Facilities under this order are required to maintain workers' vaccination records or exemption status. For each vaccinated worker, facilities must preserve the following information: (1) full name and date of birth; (2) vaccine manufacturer; and (3) date/s of vaccine administration. For exempt workers, the facility must also preserve records of the workers' testing results and signed declination forms with a written health care provider's statement, if applicable. Facilities have until September 30, 2021 to be in full compliance with the order.

As the Delta variant continues to spread, employers not affected by these new orders located in Long Beach, Los Angeles and San Francisco, and San Diego, should monitor the situation daily as these municipalities have announced that they are working to implement their own vaccine mandates soon. California employers also have the option to preemptively mandate employee vaccination under [new guidance](#) from the state's Department of Fair Employment and Housing. Employers should work closely with legal counsel to develop a comprehensive compliance strategy that also incorporates reasonable accommodations for employees with qualifying medical conditions or religious beliefs that conflict with vaccination.

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