

## **New Jersey Mandates Vaccines Or COVID-19 Testing For Covered Healthcare Settings**

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Governor Murphy issued Executive Order 252, requiring employers in covered healthcare and other high risk congregate settings, including hospitals, correctional facilities and certain long-term care facilities, to establish a policy that, among other things, mandates vaccinations or weekly testing for “covered workers.”

By September 7, 2021, “covered setting” employers must establish a policy that requires covered workers to (1) provide adequate proof of full vaccination; or (2) submit to testing, at least one to two times per week. The “covered workers” in the mandate includes, but is not limited to, both full-time and part-time employees, as well as contractors, and individuals providing operational or custodial services, or administrative support.

“Covered” healthcare settings include:

1. Acute, pediatric, inpatient rehabilitation, and psychiatric hospitals (including specialty hospitals, and ambulatory surgical centers);
2. Long-term care facilities;
3. Intermediate care facilities;
4. Residential detox, short-term, and long-term residential substance abuse disorder treatment facilities;
5. Clinic-based settings (e.g., ambulatory care, urgent care clinics, dialysis centers, Federally Qualified Health Centers, family planning sites, and opioid treatment programs);
6. Community-based healthcare settings (e.g., Program of All-Inclusive Care for the Elderly, pediatric and adult medical daycare programs, and licensed home health agencies and registered healthcare service firms).

The Executive Order does not appear to apply to many types of primary care offices but, rather,

seems to be directed toward higher population facilities. It is also unclear whether certain distinct offices within large hospital organizations are also subject to these requirements if they do not fall under the definition of a “covered setting.” Employers should note that the requirements seem to apply to all employees, as opposed to only patient-facing employees.

Employers should carefully review whether they are subject to the Executive Order, and prepare compliant policies as needed. Employers should also consider whether any other legal issues are implicated through their new policies, such as privacy issues pertaining to protected health information, and employee compensation issues pertaining to the costs of tests, or work time spent completing a test.

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