

Public Health Order Questions & Answers: Health Care Worker Protections in High-Risk Settings

8/9/2021

Related Materials:

Health Care Worker Protections in High-Risk Settings State Public Health Order

The risk for COVID-19 exposure and infection will remain in California until we reach community immunity with vaccinations, especially in communities heavily impacted by COVID-19. Continued use of face coverings helps prevent COVID-19 transmission among people with higher risk of infection (those who are unvaccinated or immunocompromised), those with prolonged, cumulative exposures, and individuals whose vaccination status is unknown.

Enforcement

Under what authority is this Public Health Order related to health and congregate facility vaccine verification and testing being issued and who will be responsible for enforcement of these requirements?

Vaccine verification and weekly COVID-19 testing for certain health care workers and workers in congregate facilities are required under a State Public Health Order. Several Health and Safety Code provisions (listed in the Order itself) authorize the California Department of Public Health to take action necessary to protect public health.

The state's regulating entities will enforce this requirement. For example, the California Department of Public Health will enforce this requirement at hospitals, skilled nursing facilities, intermediate care facilities, and the other health care facilities it licenses; the California Department of Social Services (CDSS) will enforce this requirement at adult and senior residential facilities and adult day programs licensed by CDSS; and the Department of Health Care Services will enforce this requirement at residential substance use treatment and mental health treatment facilities. Local health jurisdictions may also enforce the requirements in the Order.

We are also relying on public and private partnerships, as we have done throughout the pandemic, to help combat the spread of this virus. Our partners are committed to doing the right thing to protect workers, patients, and residents from this virus. The state will work closely with our partners and local officials to implement this Order and help end this pandemic.

Are there any specific requirements for the entities on how they must maintain the data they collect?

Facilities must have a plan in place for tracking verified worker vaccination status. Records of vaccination verification must be made available, upon request, to the local health jurisdiction for purposes of case investigation.

Refer to CDPH Vaccine Records and Standards for more information.

When a health care staffing agency is contracted to provide health care workers for a health care facility, would the verification of vaccination of health care workers, as required by the Order, fall to the health care facility or the health care staffing agency?

Vaccine verification is the responsibility of the **facility**. The facility can accept proof from another employer (if the worker is employed by a staffing agency) or the employee themselves so long as the documentation meets all the requirements and criteria as defined by the CDPH Vaccine Records and Standards.

Testing

Which tests will qualify for weekly testing? (e.g., point of care tests, rapid tests, community testing sites and do tests need to be approved by the FDA?)

Antigen and PCR tests qualify and must either have 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.

If rapid point of care tests qualify, do test providers need to have a Laboratory Field Services Clinical Laboratory Improvement Amendments (CLIA) license to administer?

Yes, but only if the terms and conditions of the FDA's EUA require clinical laboratory licensure. In this instance, test providers must either have a CLIA license or submit an application for a CLIA Certificate of Waiver before beginning testing, but they do not need to wait for receipt of approval of a CLIA waiver. The California Department of Public Health offers a statewide CLIA waiver and antigen testing program and organizations are encouraged to submit an application.

Can providers test their own employees, especially if the employee is not a patient of record?

Yes, providers can test their own employees. However, in order to provide COVID-19 testing for employees, the entity must comply with State and federal requirements for clinical laboratory testing:

- The testing site must have a California clinical lab license or registration and a federal CLIA certificate for the complexity of testing being performed
- The test must be performed by personnel who have California licensure for the complexity of testing being performed
- The place of employment must report through the California electronic reporting system:
 - All **positive and non-positive** (negative, indeterminate, and specimen unsatisfactory) test results.
 - Results from **molecular (PCR), antigen, and antibody/serology** tests. This includes point-of-care (POC) tests conducted in emergency departments, in clinics, at mass testing events, during screening for businesses, schools, and other institutions, etc.
- Tests must be ordered by a licensed physicians or other person authorized to order tests under their scope of practice, as specified in California Business and Professions Code section 1288.
- For information about how to obtain the necessary licensure, please contact Laboratory Field Services at LFSCOVID@cdph.ca.gov.

Are there resources available for testing?

The Testing Task Force (TTF) has a "lab list" where organizations can find private testing companies. Additionally, providers can contact the Testing Task Force if they would like to partner with the State of California to offer COVID-19 testing in your community.

Who will cover the cost of diagnostic screening testing in health care and other congregate settings?

Health plans are obligated to cover the cost of COVID-19 testing in these settings. For more information view the All Plan Letter 21-020 from the DMHC.

Health insurers are also required to waive cost sharing amounts for certain COVID-19 related screening and testing. For more information see the California Department of Insurance FAQ regarding COVID Testing and Coverage.

The Department of Health Care Services (DHCS) also covers both COVID-19 viral and serologic (antibody) tests, at no cost to Medi-Cal beneficiaries. 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). For more information, see the DHCS COVID-19 Antibody Testing Memo 12-1-2020.

Are there any recommendations or requirements for entities in how they store/manage employee test results?

Facilities must have a plan in place to track test results. There are no requirements on how facilities must store test results. There are IT platforms available that can facilitate these processes for facilities.

Is testing in correctional facilities only required for healthcare staff? Or for corrections officers too? Or for inmates?

The Order applies to all unvaccinated workers in the settings identified. Workers are defined as "all paid and unpaid persons serving in health care, other health care or congregate settings who have the potential for direct or indirect exposure to patients/clients/residents 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." To the extent that other staff, including correctional officers, meet this definition they would be required to comply with the testing requirements. This Order does not apply to inmates.

In state correctional facilities, other staff who do not meet this definition are subject to vaccine verification and testing pursuant to separate state requirements.

If a homeless provider also acts as a daycare facility - what do they do if the ratio of childcare professionals fall below state requirements?

The homeless provider should confer with the California Department of Social Services (who license day care facilities) to discuss impacts and alternatives.

Covered health care settings

What facilities/offices are not covered under this Order?

- Acupuncture office
- Chiropractic office
- Naturopathic doctor office
- Occupational therapy office
- Optometry office
- Outpatient physical, speech, occupational therapy offices
- Pharmacies
- Podiatry office
- First aid offices (e.g., at a resort or theme park)

Does the Order cover unlicensed group and transitional housing facilities and homes?

No, the Order only covers those adult and residential care facilities licensed by the California Department of Social Services.

Are school-based clinics covered?

School-based clinics that are licensed are covered under the Order and would be required to follow all applicable rules for unvaccinated healthcare workers. Nurses' offices that are not licensed would be not covered by the State Health Officer Order.

Will home health and hospice agencies be required to verify vaccine status of their staff?

Home health and hospice agencies are covered by the Order only with respect to agency staff who are providing care on site at one of the covered settings.

Are assisted living facilities covered under this Order?

Yes, assisted living facilities are covered under this Order.

Are IHSS programs and providers covered under this Order?

No, IHSS providers and programs are not covered under this Order.

Are California Children's Services Medical Therapy Units included in this Order?

Outpatient physical, speech, and occupational therapy offices are not covered under the definition of "other healthcare settings."

Are public health department clinics covered under this Order?

Yes, public health clinics are covered under Clinics & Doctor Offices (including behavioral health, surgical).

Are city jails covered under this Order?

Yes, city jails would be considered a local detention or correctional facility.

Are Fire, Police, ambulance, and other pre-hospital care workers covered under this Order?

No, these staff are not covered by this Order unless they also work for a covered entity and as outlined by the Public Health Order.

Does the section of the Order specific to high risk congregate settings include the hotels under Project Room Key?

No, hotels under Project Room Key are not considered congregate settings and therefore are not covered by this Order.

Are health care workers who work remotely or not in the office covered under the July 26, 2021 Order? Do they need to be vaccinated?

Workers are defined in the Order as "all paid and unpaid persons serving in health care, other health care or congregate settings who have the potential for direct or indirect exposure to patients/clients/residents 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." To the extent that remote staff, or those not working in the office, do not meet this definition, then they would not be covered by this Order.

Masking

What type of masks are required for staff and patients?

All facilities identified in this Order must strictly adhere to current CDPH Masking Guidance. To the extent they are already applicable, facilities must also continue to adhere to Cal/OSHA's standards for Aerosol Transmissible Diseases (ATD), which requires respirator use in areas where suspected and confirmed COVID-19 cases may be present, and the Emergency Temporary Standards (ETS) that requires all unvaccinated workers be provided a respirator upon request. Per the CDPH Masking Guidance, surgical masks are recommended in:

- Healthcare settings
- State and local correctional facilities and detention centers
- Homeless shelters
- Long Term Care Settings & Adult and Senior Care Facilities