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GAVIN NEWSOM
Governor

March 3, 2023

TO: All Californians

SUBJECT: Adult Care Facilities and Direct Care Worker Vaccine Requirement



**This State Public Health Officer Order will take effect on April 3, 2023.
The current State Public Health Officer Order is in effect until April 2,
2023.**

Related Materials: Adult Care Facilities and Direct Care Worker Vaccine Requirement Q&A

State Public Health Officer Order of March 3, 2023

Since the start of the pandemic, the California Department of Public Health (CDPH) has led with science and data to better understand COVID-19. California has seen a dramatic increase in the percentage of Californians that are fully vaccinated and boosted. At present, 80% of Californians 12 years of age and older have completed their primary series of COVID-19 vaccines, and 62% have also received at least their first booster dose. Vaccine coverage is also high among workers in high-risk settings, and the proportion of unvaccinated workers is low.

On December 22, 2021, this Order was amended to make boosters mandatory for covered workers and to require additional testing of workers eligible for boosters who are not yet boosted. Between that time and the March 1st, 2022, deadline, booster rates for healthcare personnel increased 47%. Since March 2022, healthcare personnel booster rates reached 90%. In addition, 88% of Skilled Nursing Facility healthcare personnel have received at least one booster dose and 71% of staff at the California Department of Corrections and Rehabilitation have completed their primary series.

In addition, at the federal level, QSO-23-02-ALL (Revised Guidance for Staff Vaccination Requirements) currently requires all Medicare- and Medicaid-certified providers ensure that all applicable staff are vaccinated with COVID-19 primary series. Federal regulations 42 CFR 483.80(d)(3) and 42 CFR 483.460(a)(4)(i) also require that Long-Term Care (LTC) facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs-IID) must offer COVID-19 vaccines to residents, clients, and staff onsite when supplies are available to the facility and in accordance with the CDC and the Advisory Committee on Immunization Practices (ACIP) COVID-19 vaccine schedule, which includes bivalent booster doses.

In March 2022, California announced the release of the state's SMARTER Plan, the next phase of California's COVID-19 response. California's path forward will be predicated on individual, smarter actions that will collectively yield better outcomes for our neighborhoods, communities, and state. Healthcare personnel staying up to date with COVID-19 vaccinations and boosters remains the most important strategy to prevent serious illness and death from COVID-19.

Consequently, although COVID-19 remains with us, I am rescinding the September 28, 2021 State Public Health Officer Order **effective April 3, 2023**.

Introduction to State Public Health Officer Order of September 13, 2022

Since the start of the pandemic, the California Department of Public Health (CDPH) has led with science and data to better understand this disease. California has seen a dramatic increase in the percentage of Californians that are fully vaccinated and boosted. At present 80% of Californians 12 years of age and older have completed their primary series of COVID-19 vaccines, and 48% have received their first booster dose. Vaccines for children 5-11 years of age have been available since October 2021. Vaccine coverage is also high among workers in high-risk settings, and the proportion of unvaccinated workers is low. As we've also seen, the Omicron subvariants have shown immune escape and increased transmissibility, and while unvaccinated individuals still have higher risk of infection, previously infected, vaccinated, and boosted persons have also been infected. Consequently, mandated testing of the small number of unvaccinated workers is not effectively preventing disease transmission as it did with the original COVID-19 virus and prior variants earlier in the pandemic.

On August 11th and August 24th, the Centers for Disease Control (CDC), in updated guidance, also indicated that screening testing is no longer recommended in general community settings, and while screening testing may still be considered in high-risk settings, if implemented it should include all persons, irrespective of vaccination status, given the recent variants and subvariants with significant immune evasion.

COVID-19 vaccination and boosters continue to remain the most important strategy to prevent serious illness and death from COVID-19.

Accordingly, amendments to the State Public Health Officer Order of February 22, 2022 regarding required testing for exempt covered workers are needed at this time, to reflect recent CDC recommendations, the current science of the Omicron subvariants, the increases in community immunity from vaccination and infection, and increases in vaccine coverage of our healthcare workforce.

Covered workers must continue to comply with all required primary series and vaccine booster doses pursuant to Table A below. The timing of required booster doses has been amended to reflect current CDC recommendations. Additionally, facilities must continue to track workers' vaccination or exemption status

to ensure they are complying with these requirements. CDPH recommends that all workers stay up to date on COVID-19 and other vaccinations.

CDPH continues to assess conditions on an ongoing basis. California must be vigilant to maintain situational awareness through surveillance and be ready to pause or reinstate a higher level of protective mitigation recommendations or requirements.

Introduction from Original State Public Health Officer Order of February 22, 2022

Since the start of the pandemic, CDPH has led with science and data to better understand this disease. There has been a growing body of evidence suggesting that a combination of history of SarsCoV2 vaccination and infection can lead to a strong “hybrid” immunity after recovery from infection. Additionally, there is immunological data suggesting that allowing an adequate interval between an infection and a COVID-19 vaccination dose may be important to allow quality immune memory.

Vaccines continue to remain the most critical aspect of moving our communities out of this pandemic. They lower risk of getting and spreading the virus that causes COVID-19 and also prevent serious illness and death. They are critical for building a foundation of individual and herd immunity, especially while a portion of our population continues to be unvaccinated. According to the CDC “... getting a COVID-19 vaccination is a safer and more dependable way to build immunity to COVID-19 than getting sick with COVID-19. COVID-19 vaccination causes a more predictable immune response than infection with the virus that causes COVID-19.” Conversely, the level of protection people get from COVID-19 infection alone may vary widely depending on how mild or severe their illness was, the time since their infection, which variant they were infected with, and their age. Increasing evidence shows that a combination of infection after completing the primary series of vaccination can build strong hybrid immunity. Thus CDPH is updating its order requiring health care workers to be fully vaccinated and boosted by March 1, 2022 to allow delay of the March 1, 2022 deadline for receiving a booster for covered workers with proof of a recent infection for up to 90 days from date of infection.

Accordingly, amendments to the original State Public Health Officer Order of December 22, 2021, are needed at this time, to reflect current science and understanding as it relates to hybrid immunity in those who are fully vaccinated and then become infected. As we continue to learn more about post-Omicron infection immunity, hybrid immunity, waning immunity in general, and what new variants may evolve, we will continue to reassess COVID-19 vaccine requirements and recommendations.

Introduction from Original State Public Health Officer Order of December 22, 2021

Since Thanksgiving, the statewide seven-day average case rate has increased by 34% and hospitalizations have increased by 17%. In addition, the recent emergence of the Omicron variant (it is estimated that approximately 70% of cases sequenced, nationally, are Omicron and rapid increases are occurring globally) further emphasizes the importance of vaccination, boosters, and prevention efforts, including testing, which are needed to continue protecting against COVID-19.

Early data also suggest the increased transmissibility of the Omicron variant is two to four times as infectious as the Delta variant, and there is evidence of immune evasion. Recent evidence also shows that among healthcare workers, vaccine effectiveness against COVID-19 infection is also decreasing over time without boosters. Consequently, current vaccine requirements of staff in health care settings are not proving sufficient to prevent transmission of the more transmissible Omicron variant. Boosters have been available in California since September 2021.

Although COVID-19 vaccination remains effective in preventing severe disease, recent data suggest vaccination becomes less effective over time at preventing infection or milder illness with symptoms, especially in people aged 65 years and older.

Based on the emergence of Omicron, additional statewide facility-directed measures are necessary to ensure we maintain adequate staffing levels within our healthcare delivery system. Additionally, given the current hospital census, even a moderate surge in cases and hospitalizations could materially impact California's health care delivery system within certain regions of the state. Accordingly, amendments to the original State Public Health Officer Order of September 28, 2021, to make boosters mandatory and to require additional testing of workers eligible for boosters who are not yet boosted are necessary at this critical time.

Introduction from Original State Public Health Officer Order of September 28, 2021

The COVID-19 pandemic remains a significant challenge in California. COVID-19 vaccines are effective in reducing infection and serious impacts including hospitalization and death. At present, 69.34% of Californians 12 years of age and older are fully vaccinated with an additional 8.26% are partially vaccinated. California continues to experience high-levels COVID-19 cases with 21.1 new cases per 100,000 people per day, with case rates currently tenfold higher as compared to June 2, 2021. The Delta variant is highly transmissible and causes more severe illness. In fact, recent data suggests that viral load is roughly 1,000 times higher in people infected with the Delta variant than those infected with the original coronavirus strain, according to a recent study. The Delta variant is currently the most common variant causing new infections in California.

Unvaccinated persons are more likely to get infected and spread the virus, which is transmitted through the air. Most current hospitalizations and deaths are among unvaccinated persons. California's hospital and health care delivery system is strained. Additional statewide directed measures are necessary to protect particularly vulnerable populations, and ensure a sufficient, consistent supply of workers in high-risk care settings. These measures can improve vaccination rates in these settings, which ensures that both the individuals being served as well as the workers providing the services, are protected from COVID-19.

Adult and senior care facilities, and settings within which direct care and services are provided, as identified in this order, are high-risk settings where COVID-19 transmission and outbreaks can have severe consequences for vulnerable populations resulting in hospitalization, severe illness, and death. Further, the settings in this order share several features. There is frequent contact between staff or workers and highly vulnerable individuals, including elderly, chronically ill, critically ill, medically fragile, and people with disabilities. In many of these settings, the consumers and residents are at high risk of severe COVID-19 disease due to underlying health conditions, advanced age, or both.

Among 19,830 confirmed COVID-19 outbreaks throughout the pandemic, 47% were associated with the health care, congregate care, and direct care sector. The top industry settings are adult and senior care facilities and in-home direct care settings (22%) where increasing numbers of workers are among the new positive cases and recent outbreaks in these types of settings have frequently been traced to unvaccinated individuals.

Vaccination against COVID-19 is the most effective means of preventing infection with the COVID-19 virus, and subsequent transmission and outbreaks. As we respond to the ongoing pandemic, all workers in adult and senior care facilities and in-home direct care settings must be vaccinated to reduce the chance of transmission to vulnerable populations.

For these reasons, COVID-19 remains a concern to public health and, in order to prevent its further spread in adult and senior care facilities and in-home direct care settings, new public health requirements are necessary at this time.

NOW, THEREFORE, I, as State Public Health Officer of the State of California, order:

1. All individuals in subdivisions (a) through (e) must have the first dose of a one-dose regimen or the second dose of a two-dose regimen by November 30, 2021.

a. All workers who provide services or work in Adult and Senior Care Facilities licensed by the California Department of Social Services;

b. All in-home direct care services workers, including registered home care aides and certified home health aides, except for those workers who only provide services to a recipient with whom they live or who are a family member of the recipient for whom they provide services;

c. All waiver personal care services (WPCS) providers, as defined by the California Department of Health Care Services, and in-home supportive services (IHSS) providers, as defined by the California Department of Social Services, except for those workers who only provide services to a recipient with whom they live or who are a family member of the recipient for whom they provide services;

d. All hospice workers who are providing services in the home or in a licensed facility; and

e. All regional center employees, as well as service provider workers, who provide services to a consumer through the network of Regional Centers serving individuals with developmental and intellectual disabilities, except for those workers who only provide services to a recipient with whom they live or who are a family member of the recipient for whom they provide services.

2. All workers who are eligible for the exceptions outlined in subdivisions (b), (c), and (e) of section (1) must only provide services to a single household. If the worker provides services across multiple households, then the exception does not apply, and the worker must adhere to the provisions of this Order.

3. Two-dose vaccines include: Pfizer-BioNTech, Moderna or Novavax or vaccines authorized by the World Health Organization. The one-dose vaccine is: Johnson and Johnson [J&J]/Janssen. All COVID-19 vaccines that are currently authorized for emergency use can be found at the following links:

- a. By the US Food and Drug Administration (FDA), are listed at the FDA COVID-19 Vaccines webpage.
- b. By the World Health Organization (WHO), are listed at the WHO COVID-19 Vaccines webpage.

4. "Worker" refers to all paid and unpaid individuals who work in indoor settings where (1) care is provided to individuals, or (2) persons in care have access for any purpose. This includes workers serving in residential care or other direct care settings who have the potential for direct or indirect exposure to persons in care or SARS-CoV-2 airborne aerosols. Workers include, but are not limited to, direct supportive services staff, hospice providers, nurses, nursing assistants, physicians, technicians, therapists, WPCS providers, IHSS providers, registered home care aides, certified home health aides, students and trainees, contractual staff not employed by the residential facility, and persons not directly involved in providing care or services, but who could be exposed to infectious agents that can be transmitted in the care setting (e.g., clerical, clergy, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing, cosmetology, personal training and volunteer personnel).

5. "Employer" refers to an organization that employs and directs the worker in providing services. In the case of workers in a facility, the facility is the employer. In the case of certified home health aides and affiliated home care aides, the home health agencies and home care organizations are the employer.

6. "Employer-Recipient" refers to the person receiving services from IHSS workers, WPCS workers, and independent registered home care aides.

7. All workers currently eligible for boosters, who provide services or work in indoor settings described in section (4) must be "fully vaccinated and boosted" for COVID-19 by receiving all recommended doses of the primary series of vaccines and a vaccine booster dose pursuant to Table A below.

Table A:

California Immunization Requirements for Covered Workers

COVID-19 Vaccine	Primary vaccination series	When to get the vaccine booster dose	Which vaccine booster dose to receive
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Moderna or Pfizer-BioNTech or Novavax or vaccines authorized by World Health Organization	1st and 2nd doses	Booster dose at least 2 months and no more than 6 months after 2nd dose	Any of the COVID-19 vaccines authorized in the United States may be used for the booster dose, but either Moderna or Pfizer-BioNTech are preferred. Novavax is not authorized for use as a booster dose at this time.
Johnson and Johnson [J&J]/Janssen	1st dose	Booster dose at least 2 months and no more than 6 months after 1st dose	Any of the COVID-19 vaccines authorized in the United States may be used for the booster dose, but either Moderna or Pfizer-BioNTech are preferred. Novavax is not authorized for use as a booster dose at this time.
World Health Organization (WHO) emergency use listing COVID-19 vaccine	All recommended doses	Booster dose at least 2 months and no more than 6 months after getting all recommended doses	Single booster dose of Moderna or Pfizer-BioNTech COVID-19 vaccine. Novavax is not authorized for use as a booster dose at this time.
A mix and match series composed of any combination of FDA-approved, FDA-authorized, or WHO-EUL COVID-19 vaccines	All recommended doses	Booster dose at least 2 months and no more than 6 months after getting all recommended doses	Single booster dose of Moderna or Pfizer-BioNTech COVID-19 vaccine. Novavax is not authorized for use as a booster dose at this time.

a. Those workers currently eligible for booster doses per the Table above must receive their booster dose by no later than March 1, 2022.[i] Workers who provide proof of COVID-19 infection after completion of their primary series [ii] may defer booster administration for up to 90 days from date of first positive test or clinical diagnosis, which in some situations, may extend the booster dose requirement beyond March 1st. Workers not yet eligible for boosters must be in compliance no later than 15 days after the recommended timeframe above for receiving the booster dose. Workers with a deferral due to a proven COVID-19 infection must be in compliance no later than 15 days after the expiration of their deferral.

8. Workers may be exempt from the vaccination requirements under section (1) only upon providing the employer or employer-recipient a declination form, signed by the individual stating either of the following: (1) the worker is declining vaccination based on Religious Beliefs, or (2) the worker is excused from receiving any COVID-19 vaccine due to Qualifying Medical Reasons.

a. To be eligible for a Qualified Medical Reasons exemption the worker must also provide to their employer or employer-recipient a written statement signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician stating that the individual qualifies for the exemption (but the statement should not describe the underlying medical condition or disability) and indicating the probable duration of the worker's inability to receive the vaccine (or if the duration is unknown or permanent, so indicate). b. Exempt workers must wear a respirator approved by the National Institute of Occupational Safety and Health (NIOSH), such as an N95 filtering facepiece respirator, or surgical mask, at all times while in the facility.

9. Covered facilities and employers should maintain capacity at their worksite or for their covered workers to continue to test as recommended during outbreaks, and in the event it is required again at a future date. Facilities and employers may also still consider various screening strategies (point in time testing, serial testing, etc.) and based on concerning levels of transmission locally. Workers may also consider continuing routine diagnostic screening testing if they have underlying immunocompromising conditions (e.g., organ transplantation, cancer treatment), due to the greater risks such individuals face if they contract COVID-19.

10. Consistent with applicable privacy laws and regulations, an employer must maintain records of workers' vaccination or exemption status. For IHSS workers, WPCS workers, and independent registered home care aides, the worker must maintain relevant records as provided in this section.

a. The employer must provide such records to the local or state Public Health Officer, the California Department of Social Services, or their designee promptly upon request, and in any event no later than the next business day after receiving the request.

b. Employers and workers subject to the requirement under section (1) must maintain records pursuant to the CDPH Guidance for Vaccine Records Guidelines & Standards with the following information: (1) full name and date of birth; (2) vaccine manufacturer; and (3) date of vaccine administration (for first dose and, if applicable, second dose). c. For unvaccinated workers: signed declination forms with written health care provider's statement where applicable, as described in section (6) above.

11. Nothing in this Order limits otherwise applicable requirements related to Personal Protective Equipment, personnel training, and infection control policies and practices.

12. Facilities covered by this Order, to the extent possible, are encouraged to provide onsite vaccinations, easy access to nearby vaccinations, use of work time to get vaccinated, and education and outreach on vaccinations.

13. This Order shall take effect on September 17, 2022, and facilities must be in compliance with the Order at that time), with the exception of the deadlines set forth in section 7.a, which facilities must comply with as written.

14. The terms of this Order supersede the September 28, 2021 Adult Care Facilities and Direct Care Worker Vaccine Requirement.

15. This Order is issued pursuant to Health and Safety Code sections 120125, 120140, 120175, 120195 and 131080 and other applicable law.



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[i] On January 25, 2022, this deadline for booster doses was updated from February 1, 2022, to March 1, 2022. This change was necessary because of challenges caused by the Omicron surge that made it difficult for some to obtain their booster doses by the initial deadline. For instance, impacted persons were unable to get boosted while ill. Further, there are critical staffing shortages in some areas and additional flexibility is needed due to the fact that boosting can cause missed time from work due to side effects related to receiving booster doses.

[ii] To provide proof of prior infection, workers must provide documentation of previous diagnosis from a healthcare provider or confirmed laboratory results.

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