



## **Vaccine Mandate Policy and Procedure Checklist**

**Hyperlink:** <https://www.federalregister.gov/documents/2021/11/05/2021-23831/medicare-and-medicaid-programs-omnibus-covid-19-health-care-staff-vaccination>

This checklist is designed to provide members with a list of the key components of the required policies and procedures members need to create and implement by Dec. 5, 2021, under the health care facility vaccine mandate (Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination (Federal Register 61555 *et seq.*, November 5, 2021)) (the “**Rule**”).

### **Key Facts:**

#### **1. Covered Staff**

Regardless of clinical responsibility or patient contact, policies and procedures apply to the following hospital staff who provide any care, treatment or other services for the hospital or its patients:

- ✓ Hospital employees.
- ✓ Licensed practitioners.
- ✓ Students, trainees, and volunteers.
- ✓ Individuals who provide care, treatment, or other services for the hospital and/or its patients, under contract or by other arrangement.

Policies and procedures DO NOT apply to the following hospital staff:

- ✓ Staff who exclusively provide telehealth or telemedicine services outside of the hospital setting and who do not have any direct contact with patients and other staff.
- ✓ Staff who provide support services for the hospital that are performed exclusively outside of the hospital setting and who do not have any direct contact with patients and other staff.

## 2. Implementation Dates

### Phase 1 – December 6, 2021

- ✓ All staff must have received a single dose COVID-19 vaccine or the first dose of the primary vaccination series for a multi-dose COVID-19 vaccine prior to staff providing any care, treatment or other services for the hospital and/or its patients other than staff who have requested, or who have been granted, an exemption and other than staff as to whom vaccination must be temporarily delayed as recommended by the CDC due to clinical precautions and considerations.
- ✓ Facility must have developed and implemented the required policies and procedures (see policy/procedure checklist below).

### Phase 2 – January 4, 2022

- ✓ All staff must be fully vaccinated for COVID-19, except staff who have been granted exemptions to the vaccination requirements or those staff for whom COVID-19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations.

## 3. Exemptions

- ✓ Medical Exemption (see below)
- ✓ Religious Exemption (see below)

### Policy and Procedure Check List:

Under the Rule, the policies and procedures must include a “process for ensuring”

- Initial Vaccination by December 6.** All staff have received, at a minimum, by December 6, 2021, **a single-dose COVID-19 vaccine, or the first dose of the primary vaccination series for a multi-dose COVID-19 vaccine prior to providing any care, treatment, or other services for the hospital/facility/clinic and/or its patients (except for staff who have pending requests for, or who have been granted, exemptions to the vaccination requirements, or, those staff for whom vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations).**
- Full Vaccination by January 4.** All staff are **fully vaccinated** by January 4, 2022, for COVID-19 except for staff who have been granted exemptions to the vaccination requirements, or, those staff for whom vaccination must be

temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations).

- **Additional Precautions for Non-Vaccinated Staff**. Implementation of **additional precautions** to mitigate the transmission and spread for all staff who are **not** fully vaccinated.
- **Track/Document Vaccination Status**. The tracking and secure documentation of vaccination status of all staff.
- **Track/Document Booster Status**. The tracking and secure documentation of vaccination status of any staff who have obtained **any booster doses**.
- **Exemption Process**. Staff may **request an exemption** from the staff vaccination requirements.
- **Track/Document Requests for Exemptions/Granted Exemptions**. The tracking and secure documentation of the information provided by those staff who **have requested**, and for whom the hospital has **granted, an exemption**.
- **Medical Exemption Documentation**. The following documentation exists and is maintained for those granted a medical exemption to vaccination:
  - ✓ Documentation that confirms recognized clinical contraindications to COVID-19 vaccination **signed and dated by a licensed practitioner**, who is not the individual requesting the exemption.
  - ✓ Documentation **that supports staff requests** for medical exemptions from vaccination, signed and dated by a licensed practitioner, who is not the individual requesting the exemption.
  - ✓ Documentation that the “authenticating practitioner” is acting within the practitioner’s respective scope of practice and consistent with applicable law.
  - Information **specifying which of the authorized vaccines are clinically contraindicated** for the staff member **and the recognized clinical reasons** for the contraindications
  - **A statement by the authenticating practitioner recommending that the staff member be exempted** from the hospital's COVID-19 vaccination requirements **based on the recognized clinical contraindications**;

- **Temporary Delays.** Tracking and secure documentation of the vaccination status of staff for whom vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations.
- **Contingency Plans.** The creation of contingency plans for managing the impact of staff who are not fully vaccinated.

## EXEMPTIONS:

### **Exemptions:**

- ✓ Recognized medical conditions
- ✓ Religious beliefs, observances or practices

### **Medical Exemption Requirements:**

- ✓ Documentation which supports the request, **signed & dated by a licensed practitioners** who is not the individual requesting the exemption and acting within respective scope of practice and applicable laws (see above policies and procedures checklist for detail).
- ✓ Documentation of **which vaccines are clinically contraindicated** and recognized **clinical reasons** for contraindications
- ✓ **Statement by authenticating practitioners recommending staff be exempted from vaccination** based on the recognized **clinical** contraindications

### **Exemption Based on Religious Beliefs, Practice or Observance:**

- ✓ The law protects reasonable accommodations for “**sincerely held religious beliefs**”.
- ✓ Objections based on **social, political, or economic views, or personal preferences** do **not** constitute “**sincerely held religious beliefs**”.
- ✓ According to the EEOC, “**an employer should assume that a request for religious accommodation is based on sincerely held religious beliefs.**” See hyperlink below to: “**What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws**”, updated October 28, 2021, Section L.2.
- ✓ The EEOC has clarified, however, that “if an employer has an **objective basis for questioning either the religious nature or the sincerity of a particular belief, the**

**employer would be justified in making a limited factual inquiry** and seeking additional supporting information.” *Id.*

- ✓ Additionally, “[w]hile the employer should not assume that a request is invalid simply because it is based on unfamiliar religious beliefs, **employees may be asked to explain the religious nature of their belief** and should not assume that the employer already knows or understands it.” *Id.*
- ✓ The EEOC has noted that “[t]he sincerity of an employee’s stated religious beliefs also is not usually in dispute. The employee’s sincerity in holding a religious belief is “largely a matter of individual credibility””. *Id.*
- ✓ Evaluate request for exemption on individual basis.
- ✓ Possible areas of inquiry:
  - Nature of objection
  - Would compliance SUBSTANTIALLY burden your sincerely held religious beliefs. How?
  - How long have you held this belief?
  - Is the objection for one type of vaccine or all Covid-19 vaccines?
  - Have you received vaccines as an adult against any other disease (Flu, tetanus, etc.)?

**Additional Exemption Resources:**

<https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>;

The Safer Federal Workforce Task Force’s “request for a religious exception to the COVID–19 vaccination requirement” template as an example. This template can be viewed at:

<http://www.saferfederalworkforce.gov/downloads/RELIGIOUS%20REQUEST%20FORM%20-%2020211004%20-%20MH508.pdf>

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>