

# OHCA Vaccine Mandate Toolkit for Hospice

## Key Dates

- Rule: [CMS Interim Final Rule: Omnibus COVID-19 Health Care Staff Vaccination \(FAQs\)](#)
- Effective Date: November 5, 2021
- Phase 1- February 14, 2022
  - Policies and Procedures established AND
  - All staff receive first dose or has requested an exemption OR
  - 80% if staff have received first dose and has a plan to achieve full vaccination within 60 days. These providers will received a notice of non-compliance (Form 2567) but will NOT have enforcement actions.
- Phase 2- March 15, 2022
  - Policies and procedures established AND
  - Primary Vaccination series completed on all staff who have not been granted an exemption or has vaccination delayed due to clinical precautions.
  - 90% if staff have received first dose and has a plan to achieve full vaccination within 30 days. These providers will received a notice of non-compliance (Form 2567) but will NOT have enforcement actions.
- CMS Final Enforcement Date- April 14, 2022
  - Providers who do not have 100% staff compliance (completion of primary vaccination series completed who have not been granted an exemption) will be subject to enforcement actions.

## Required Policies and Procedures

- Ensuring all staff are fully vaccinated (received the first vaccination series), except for those that telework 100% of the time. These individuals must be identified in the documentation.
  - Surveyors will ensure that providers have a process for ensuring all staff obtain any recommended booster doses at the recommended timing as well.
- Exemption for Religious Reasons
  - [EEOC Guidance on Religious Discrimination](#)
  - [EEOC Religious Discrimination Compliance Manual](#)
  - EEOC Religious Exemptions [Template Form](#)
  - Federal Contractors Religious Exemption [Template Form](#)
  - Surveyors will NOT evaluate the details of the request for a religious exemption, nor the rationale for acceptance or denial. Instead, they will ensure that providers have an effective process for staff to request a religious exemption.
- Exemptions for Medical Reasons
  - Documentation Requirements:
    - Must be signed and dated by a licensed practitioner, other than the individual requesting the exemption, who is acting within their scope of practice.
    - Must specify which of the authorized COVID-19 vaccines are clinically contraindicated for the staff member.
    - Must state the recognized clinical reasons for the contraindications.
    - Must include a statement by the practitioner recommending the exemption based on recognized clinical contraindications.
  - [CDC Guidance](#) for Recognized Medical Conditions Contraindicating COVID-19 Vaccine

- Precautions for unvaccinated
  - Can include things like required weekly testing, N95 masking, physical distancing and removing staff from patient care work
  - [CDC Guidance](#) Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic
- Tracking and documenting vaccination status and exemption reasons, detailing the following:
  - The vaccination status of all covered staff. This should include their CDC Covid-19 vaccination record, documentation of vaccination from a healthcare provider or state immunization system record.
  - The vaccination status of any staff who have had booster doses [recommended by CDC](#).
  - The vaccination status of staff members for whom vaccination must be temporarily delayed, as [recommended by CDC](#), due to clinical precautions and considerations.
  - Information provided by staff members who have been granted exemptions.
  - Providers should be able to provide surveyors a list of all staff, vaccination status, and identified new hires within the last 60 days. The position and role of the staff member should be clearly identified on this list as well.
- Contingency Plan for the unvaccinated
  - Disaster planning and emergency preparedness.
  - Temporary utilization of unvaccinated personnel. Staff with at least one round of vaccination should be prioritized, per CMS guidance.
  - Staffing Agencies or position posting if staff are unable to meet vaccination deadlines.

### **Conditions of Participation**

- § 418.60 Condition of participation: Infection control.
  - (d) Standard: COVID–19 Vaccination of facility staff. The hospice must develop and implement policies and procedures to ensure that all staff are fully vaccinated for COVID–19. For purposes of this section, staff are considered fully vaccinated if it has been 2 weeks or more since they completed a primary vaccination series for COVID–19. The completion of a primary vaccination series for COVID– 19 is defined here as the administration of a single-dose vaccine, or the administration of all required doses of a multi-dose vaccine
  - 1) Regardless of clinical responsibility or patient contact, the policies and procedures must apply to the following hospice staff, who provide any care, treatment, or other services for the hospice and/or its patients:
    - (i) Hospice employees;
    - (ii) Licensed practitioners;
    - (iii) Students, trainees, and volunteers;
    - (iv) Individuals who provide care, treatment, or other services for the hospice and/or its patients, under contract or by other arrangement.
  - (2) The policies and procedures of this section do not apply to the following hospice staff:
    - (i) Staff who exclusively provide telehealth or telemedicine services outside of the settings where hospice services are provided to patients and who do

- not have any direct contact with patients, patient families and caregivers, and other staff specified in paragraph (d)(1) of this section;
- (ii) Staff who provide support services for the hospice that are performed exclusively outside of the settings where hospice services are provided to patients and who do not have any direct contact with patients, patient families and caregivers, and other staff specified in paragraph (d)(1) of this section.
- (3) The policies and procedures must include, at a minimum, the following components:
  - (i) A process for ensuring all staff specified in paragraph (d)(1) of this section (except for those staff who have pending requests for, or who have been granted, exemptions to the vaccination requirements of this section, or those staff for whom COVID–19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations) have received, at a minimum, 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 hospice and/or its patients;
  - (ii) A process for ensuring that all staff specified in paragraph (d)(1) of this section are fully vaccinated, except for those staff who have been granted exemptions to the vaccination requirements of this section, or those staff for whom COVID–19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations;
  - (iii) A process for ensuring the implementation of additional precautions, intended to mitigate the transmission and spread of COVID–19, for all staff who are not fully vaccinated for COVID–19;
  - (iv) A process for tracking and securely documenting the COVID–19 vaccination status of all staff specified in paragraph (d)(1) of this section;
  - (v) A process for tracking and securely documenting the COVID–19 vaccination status of any staff who have obtained any booster doses as recommended by the CDC;
  - (vi) A process by which staff may request an exemption from the staff COVID–19 vaccination requirements based on an applicable Federal law;
  - (vii) A process for tracking and securely documenting information provided by those staff who have requested, and for whom the hospice has granted, an exemption from the staff COVID–19 vaccination requirements;
  - (viii) A process for ensuring that all documentation, which confirms recognized clinical contraindications to COVID–19 vaccines and which supports staff requests for medical exemptions from vaccination, has been signed and dated by a licensed practitioner, who is not the individual requesting the exemption, and who is acting within their respective scope of practice as defined by, and in accordance with, all applicable State and local laws, and for further ensuring that such documentation contains:

- (A) All information specifying which of the authorized COVID–19 vaccines are clinically contraindicated for the staff member to receive and the recognized clinical reasons for the contraindications;
- (B) A statement by the authenticating practitioner recommending that the staff member be exempted from the hospice’s COVID–19 vaccination requirements for staff based on the recognized clinical contraindications;
- (ix) A process for ensuring the tracking and secure documentation of the vaccination status of staff for whom COVID–19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations, including, but not limited to, individuals with acute illness secondary to COVID–19, and individuals who received monoclonal antibodies or convalescent plasma for COVID–19 treatment; and
- (x) Contingency plans for staff who are not fully vaccinated for COVID–19.

### **Survey Guidance**

- Guidance: Quality, Safety & Oversight Memo [QSO-22-09-AII](#) (Guidance for the Interim Final Rule – Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccinations)
  - [Hospice Attachment](#)
- Level of Deficiency for providers under enforcement actions
  - Immediate Jeopardy
    - 40% or more of staff unvaccinated OR
    - Did not meet 100% staff vaccination rate standard; noncompliant infection control practices by staff and one or more components of policies and procedures were not developed or implemented
    - For IJ removal, plans of correction should correct any gaps in policies and procedures identified during survey, implementation of the contingency plan including a deadline for each unvaccinated staff to receive their first vaccine dose and implementation of additional precautions to prevent infection by unvaccinated staff.
  - Condition Level
    - 21-39% of staff unvaccinated OR
    - Did not meet 100% staff vaccination rate standard AND one or components of policies and procedures were not developed and implemented
  - Standard Level
    - Did not meet 100% vaccination standard, but making good faith effort towards compliance OR
    - 100% of staff are vaccinated and all new staff have received at least one dose AND one or more components of policies and procedures were not developed and implemented
- Note: Please note compliance dates of enforcement action at the top of this document.

- Good Faith Effort means that prior to the survey, the provider has had limited access to the vaccine and has documented attempts to obtain vaccine access and the hospice has evidence of aggressive steps to have all staff vaccinated, such as hosting vaccine clinics and advertising for new staff.
- Plan of Correction
  - To qualify for substantial compliance and clear the citation, providers meet the requirements of staff being fully vaccinated OR the staff that have received their first dose have their second dose scheduled.
  - To qualify for substantial compliance but keep the standard level citation, providers have not met the requirements of full staff vaccination but has provided evidence that unvaccinated staff have received their first dose and the remainder of unvaccinated staff have scheduled their first dose.