



City of Philadelphia

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## Memorandum

**TO:** Doctor Cheryl Bettigole, Acting Commissioner,  
Department of Public Health

**FROM:** Jo Rosenberger Altman, Senior Attorney

**DATE:** August 16, 2021

**SUBJECT:** EMERGENCY REGULATION GOVERNING THE CONTROL  
AND PREVENTION OF COVID-19 MANDATING VACCINES  
FOR HEALTHCARE WORKERS AND IN HIGHER EDUCATION,  
HEALTHCARE, AND RELATED SETTINGS

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I have reviewed the Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Healthcare Workers and In Higher Education, Healthcare, and Related Settings, attached hereto as Attachment 1. I find the regulation to be legal and in proper form. In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may now forward these regulations to the Department of Records where they will be made available for public inspection.

Consistent with Mayor Kenney's March 11, 2020 Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus, you may promulgate the amendment effective immediately upon delivery to the Department of Records as a temporary regulation, while the remaining procedures and formalities of Section 8-407 are followed to promulgate the amendment.

A handwritten signature in black ink, appearing to read "Jo A".

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Jo Rosenberger Altman  
Senior Attorney

ATTACHMENT 1



**EMERGENCY REGULATION GOVERNING THE CONTROL AND PREVENTION OF COVID-19 MANDATING VACCINES FOR HEALTHCARE WORKERS AND IN HIGHER EDUCATION, HEALTHCARE, AND RELATED SETTINGS**

**WHEREAS**, on March 6, 2020, in response to the 2019 novel coronavirus disease, COVID-19, the Governor of Pennsylvania issued a Proclamation of Disaster Emergency, which has since been terminated, and on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, or global epidemic; and

**WHEREAS**, on March 12, 2020, the Board added COVID-19 to the City's list of reportable and quarantinable diseases; and

**WHEREAS**, since March 12, 2020 the Board has promulgated and rescinded numerous disease control and prevention regulations as needed to address the ebbs and flows of the COVID-19 pandemic; and

**WHEREAS**, to date there have been more than 17,000 COVID-19 hospitalizations and 3,800 COVID-19 deaths in Philadelphia since the beginning of the pandemic; and

**WHEREAS**, cases have started to rise quickly and there are currently an average of 54 cases/100,000 people per day, which places Philadelphia in the Centers for Disease Control and Prevention substantial transmission category; and

**WHEREAS**, individuals who provide healthcare and related services are frequently in close contact with patients and clients, many of whom are at high risk for negative outcomes from a COVID-19 infection; and

**WHEREAS**, there have been many documented outbreaks among staff in healthcare facilities that have frequently led to patient infection; and

**WHEREAS**, individuals attending colleges, junior colleges, and universities represent the demographic most likely to be infected by and spread COVID-19; and

**WHEREAS**, safe, highly effective COVID-19 vaccines are now widely available in the United States; and

**WHEREAS**, administration of a COVID-19 vaccine is a medically accepted form of prophylactic treatment that dramatically reduces the likelihood of experiencing a symptomatic SARS-CoV-2 infection, and recent studies show that available COVID-19 vaccines also reduce asymptomatic infection and transmission; and

**WHEREAS**, it is well established that vaccines remain effective even against the new variants of concern; and

**WHEREAS**, broad distribution and uptake of COVID-19 vaccines is essential to ending the COVID-19 pandemic; and

**NOW, THEREFORE**, the Board of Health hereby adopts the following emergency regulation, effective upon delivery to the Department of Records, while the remaining procedures and formalities of Section 8-407 are followed to promulgate this as a formal regulation:

1. **Definitions.**

**Covered Healthcare Personnel.** An individual or individuals who fall into one or more of the following categories, excluding anyone who works completely through telework:

(a) An employee, contract worker, student or volunteer affiliated with a Healthcare Institution who performs duties in a building where patients, clients, or their visitors are present, whether or not such duties include direct contact with patients, clients, or their visitors; excluding individuals working in a business that is predominately retail oriented and provides incidental Healthcare Related Services, such as grocery stores, convenience stores, membership based warehouse stores, pharmacies, and similar businesses unless the individual meets the requirements of subsection (b); or

(b) A Healthcare Worker.

**Covered Higher Education Individual.** Any individuals who (a) works, volunteers, or attends one or more classes or other activities on campus in connection with a Higher Education Institution; and (b) has in-person contact with one or more other individuals identified in subsection (a) of this definition. The term excludes anyone who does not have any in-person contact on campus, including any individual who engages with the Higher Education Institution exclusively through telecommunications devices.

**Covered Individual.** Covered Healthcare Personnel or a Covered Higher Education Individual.

**Fully Vaccinated.** An individual is considered fully vaccinated when two or more weeks have elapsed since the individual received the final dose of the COVID-19 vaccine as recommended by the Food and Drug Administration or World Health Organization.

**Healthcare Institution.** Any person or entity, excluding patients or clients, that employs, coordinates, or otherwise engages the services of Covered Healthcare Personnel in the City. A self-employed individual who provides Healthcare Related Services in person shall be considered a Healthcare Institution for purposes of this Regulation.

**Healthcare Related Services.** Any inpatient or outpatient medical or behavioral health, dental, nursing, medical first responder, pharmacological, personal care home, assisted living residence, intermediate care, adult daycare, long term care facility, acupuncture, audiology, hearing aid, chiropractic care, naturopathic care, occupational therapy, physical therapy, athletic training, optometry, ophthalmology, or speech language pathology services.

**Healthcare Worker.** An individual, including a self-employed individual, who provides Healthcare Related Services in person to patients or clients.

**Higher Education Institution.** Any university, college, or junior college.

## 2. Regulated Individuals and Establishments.

(A) **Healthcare Institutions.** Effective October 15, 2021, no Healthcare Institution shall employ (including self-employ), contract with, or otherwise utilize the services of Covered Healthcare Personnel unless such Covered Healthcare Personnel (i) has been Fully Vaccinated; or (ii) received an exemption from the Healthcare Institution under paragraph 3 of this Regulation, and complies with one or more accommodations adopted by the Healthcare Institution.

(B) **Higher Education Institution.** Effective October 15, 2021, no Higher Education Institution shall employ, contract with, otherwise utilize the services of, or allow on campus for classes in an indoor setting any Covered Higher Education Individual unless such individual: (i) has been fully vaccinated; or (ii) has obtained an exemption from the applicable Higher Education Institution under paragraph 3 of this Regulation; and complies with one or more accommodation(s) adopted by the applicable Higher Education Institution.

(C) **Healthcare Workers.** Effective October 15, 2021, no Healthcare Worker may work at a Healthcare Institution or provide Healthcare Related Services to a patient or client in Philadelphia unless such Healthcare Worker (i) has been Fully Vaccinated; or (ii) has been granted an exemption under paragraph 3 of this Regulation from any applicable Healthcare Institution for whom such individual works; or if self-employed, such individual has documented the need for an exemption under paragraph 3(A) or (B) prior to October 15, 2021; and documents ongoing compliance with one or more accommodation(s) set forth in paragraph 4 of this regulation.

3. **Exemptions.** For the purposes of this Regulation only, a Higher Education Institution or Healthcare Institution subject to this Regulation shall grant a Covered Individual an exemption from the vaccination requirements of this Regulation if such individual qualifies for one or both of the exemptions below and agrees in writing to abide by the accommodation(s) required by the applicable Higher Education Institution or Healthcare Institution. Nothing in this Regulation, however, precludes any Higher Education Institution or Healthcare Institution from establishing more strict vaccine requirements for its workforce, contractors, or volunteers to the extent otherwise permitted under applicable law.

(A) **Medical Exemption.** For the purpose of this Regulation only, an exemption shall

be granted if the Higher Education Institution or Healthcare Institution determines that the administration of any COVID-19 vaccine is contraindicated because the administration would be detrimental to the health of the Covered Individual. A Covered Individual shall request an exemption by submitting a certification from a licensed healthcare provider to the applicable Higher Education Institution or Healthcare Institution certifying that the exemption applies and stating the specific reason that the vaccine is contraindicated for the Covered Individual. Such certification must be signed by both a healthcare provider and the Covered Individual subject to the requirements and penalties of Section 1-108 of The Philadelphia Code.

(B) **Religious Exemption.** For the purpose of this Regulation only, an exemption shall be granted if the Covered Individual certifies in writing that such individual has a sincerely held religious belief that precludes such individual from receiving the COVID-19 vaccination. Such certification must be signed by the Covered Individual subject to the requirements and penalties of Section 1-108 of The Philadelphia Code.

4. **Accommodations:** Each Healthcare Institution or Higher Education Institution shall adopt one or more of the following accommodations for any Covered Individuals that have been granted an exemption under Section 3, provided that all individuals must continue to wear face masks or other face coverings consistent with the June 15, 2021 Emergency Order Establishing Safety Measures for Full Reopening to Prevent the Spread of COVID-19, as it has been amended:

(A) **Routine Testing:**

a. For Higher Education Institutions: Requiring exempt Covered Higher Education Individuals to submit to a Polymerase Chain Reaction (“PCR”) test for COVID-19 PCR test at least weekly or an antigen test for COVID-19 at least twice per week, timed appropriately under the circumstances.

b. For Healthcare Institutions and Healthcare Workers: Requiring exempt Covered Healthcare Personnel (including an exempt self-employed Healthcare Worker) to submit to either a PCR or antigen test at least twice per week, timed appropriately under the circumstances.

(B) **Masking and distancing:** For Higher Education Institutions with ninety percent (90%) or more of Covered Higher Educational Individuals Fully Vaccinated only, requiring exempt Covered Higher Education Individuals to double mask indoors and remain at least six (6) feet from others at all times, whether on campus or off-campus engaged in an activity affiliated with the Higher Education Institution. For the purpose of this Regulation, double masking means wearing a cloth mask tightly fitted over a properly fitted surgical mask or a well fitted respirator equivalent to an N95.

(C) **Virtual accommodation:** If feasible, allowing a Covered Individual to engage with the Higher Education Institution or Healthcare Institution through wholly remote means or in another manner such that the individual no longer qualifies as a Covered Individual.

5. **Documentation Required:** Each Higher Education Institution, Healthcare Institution, and Healthcare Worker subject to this regulation shall maintain documentation of the vaccination status of each affiliated Covered Individual, any exemption requested by a Covered Individual under paragraph 3 of this Regulation, including all certifications submitted, whether or not such exemption request was granted and why, and the accommodation or accommodations granted to each exempt Covered Individual.

6. **Effective Date:** This regulation is effective immediately upon the filing of this regulation with the Department of Records.

7. **Interpretation and Implementation:**

(A) **Stricter Regulation Permitted.** Nothing in this Regulation prohibits any business, entity, or individual from implementing more stringent vaccine, masking, distancing or other or mandate on its customers or those it employs, contracts with, or engages in a volunteer capacity, whether or not such individuals are Covered Individuals under this Regulation.

(B) **Conflicts.** Except to the extent of a direct conflict, this regulation shall be interpreted as consistent with applicable orders and requirements of the Commonwealth of Pennsylvania. In the event of a direct conflict, the most restrictive order or requirement controls. The City shall continue reviewing inquiries and submissions regarding the applicability of the City's orders to businesses and activities.

(C) **Inspection Required.** Higher Education Institutions, Healthcare Institutions, and Healthcare Workers must allow inspection of records required to be maintained under paragraph 5 "Documentation Required" and ongoing operations by the Department as a condition of operation. Copies of such records must be provided to the Department upon request. Any records inspected by or provided to the Department will be maintained confidentially consistent with the requirements of 35 P.S. § 521.15.

(D) **Penalties.** Failure to comply with this Regulation shall result in orders to cease operations and the imposition of penalties, fines, license suspensions, and other remedies as provided for by law, including such penalties and remedies set forth in the April 29, 2020 Emergency Regulation of the Board of Health Governing the Control and Prevention of COVID-19 Pertaining to Fines and Penalties.

(E) **Duration.** This regulation shall remain in effect until rescinded, superseded or amended by further order or regulation.

(F) **Guidance.** The Department of Health directed to promulgate guidance by order or otherwise to implement the requirements of this Regulation.