



City of Philadelphia

**LAW DEPARTMENT
One Parkway
1515 Arch Street
17th Floor
Philadelphia, PA 19102**

M e m o r a n d u m

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

FROM: Jo Rosenberger Altman, Senior Attorney

DATE: October 18, 2022

SUBJECT: Fourth Consolidated and Restated Supplemental Regulation Governing the
Control and Prevention of COVID-19 – (Revised Safety Measures and
Delegation of Authority)

I have reviewed Fourth Consolidated and Restated Regulation Governing the Control and Prevention of COVID-19 (Revised Safety Measures and Delegation of Authority) approved by the Board of Health, a copy of which is attached. 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.

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

Jo Rosenberger Altman
Senior Attorney



CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH: 10/13/2022
LAW DEPARTMENT:
RECORDS DEPARTMENT:

**FOURTH CONSOLIDATED AND RESTATED
SUPPLEMENTAL REGULATION GOVERNING
THE CONTROL AND PREVENTION OF COVID-19
(REVISED SAFETY MEASURES AND DELEGATION OF AUTHORITY)**

WHEREAS, the Pennsylvania Disease Control and Prevention Act of 1955, 1956, April 23, P.L. 1510, 35 P.S. § 52.1 et seq., (the “DCPA”) and Chapter 6-200 of The Philadelphia Code authorize the Board of Health to establish lists of reportable diseases and conditions, and further provide that the Board and the Department of Public Health are responsible for implementing appropriate disease control and prevention measures in order to limit the spread of disease in an epidemic emergency; and

WHEREAS, Sections 6-201 through 6-206 and 6-210 of The Philadelphia Code likewise vest the Board of Health, and in times of emergency the Department of Public Health, with the authority to forbid the congregation of persons when necessary to prevent the further spread of a communicable and quarantinable disease to take such other measures as are necessary to prevent the spread of such disease; and

WHEREAS, the SARS-CoV-2 (COVID-19) can cause severe disease and death, particularly in older adult and other vulnerable populations; and

WHEREAS, on March 12, 2020, the Board by emergency regulation added COVID-19 to the City’s list of reportable and quarantinable diseases; and

WHEREAS, effective February 25, 2022, the Board of Health adopted the Third Consolidated and Restated Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Consolidated State Measures for Full Reopening and Delegation of Authority), which was amended effective March 11, 2022 (collectively the “Third Consolidation, As Amended”); and

WHEREAS, since March 11, 2022, with some variation, the course of the COVID-19 pandemic in Philadelphia has continued to evolve in various ways and since late July, 2022, has substantially improved; and

WHEREAS, new vaccines are now available to even better protect against prevalent variants of the disease; and

WHEREAS, to date there have been more than 25,000 COVID-19 hospitalizations and 5,200 COVID-19 deaths in Philadelphia since the beginning of the pandemic; and

WHEREAS, there are currently an average of 76 cases/100,000 people per day; and

WHEREAS, case counts and hospitalizations have remained either level or declined slightly since late July, 2022; and

WHEREAS, in the preceding months the Health Department has determined it has been appropriate to exercise its enforcement discretion to relax certain testing requirements previously required and has identified previous regulations that are either no longer necessary at this stage of the pandemic; and

WHEREAS, the Board has determined that it is appropriate to further roll back changes and repeal certain regulations that are no longer necessary; and

WHEREAS, the Board of Health continues to recognize that the situation involving the COVID-19 pandemic is fast moving and often requires changes to control measures both to impose additional measures and to roll back required measures when appropriate before the Board is able to meet, and likewise has determined that a consolidated and restated regulation summarizing certain applicable control and prevention methods would be helpful at this time; and

NOW, THEREFORE, pursuant to all of its authority under Philadelphia and Pennsylvania law, Board of Health hereby adopts the following regulation:

(A) This Fourth Consolidated and Restated Regulation Governing the Control and Prevention of COVID-19 (Consolidated Safety Measures for Full Reopening and Delegation of Authority) (the “Fourth Consolidation”) supplements the Philadelphia Department of Public Health’s *Regulations Governing the Control of Communicable and Non-communicable Diseases and Conditions* and incorporates, supersedes, or repeals all active regulations and orders governing the control and prevention of COVID-19, except those regulations specifically identified in paragraph C, below. Regulations superseded or repealed by this Fourth Consolidation are listed in paragraph D.

(B) The Second Revised Consolidated and Restated Safety Measures for a Continued Full Reopening to Prevent the Spread of SARS-CoV-2 (COVID-19) (the “Revised Safety Measures”), attached hereto as Attachment A, which is a consolidation of the currently applicable regulations as they have been modified and relaxed by the Department of Health in accordance with their enforcement discretion to date, and which shall govern the conduct of all

businesses and activities operating in the City while this Fourth Consolidation is in effect, provided that the Health Commissioner may modify enforcement as provided in paragraph E.

(C) The following COVID-19 related regulations are not affected by this Fourth Consolidation all as they have been, or will be, amended:

(1) **Communicable Disease Listing, Reporting, Quarantine, and Isolation Requirements:** The March 12, 2020 and May 15, 2020 Amendments to Regulations Governing the Control of Communicable and Noncommunicable Diseases and Conditions.

(2) **Surveillance & Data Reporting Related Regulations:**

(a) The Sixth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Mandatory Data Reporting Order);

(b) the Regulation Relating to Perinatal COVID-19 Surveillance by the Division of Maternal, Child, and Family Health of the Philadelphia Department of Public Health.

(3) **Long Term Care Facility Related Emergency Regulation:** The Seventeenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Long-Term Care Isolation Safety and Transfer).

(4) **Vaccine Information Statements Regulation:** The Emergency Regulation for the Control and Prevention of COVID-19 Supplementing the Regulation Governing the Immunization and Treatment of Newborns, Children, and Adolescents (Vaccine Information Statements).

(5) **Vaccine Requirements:** The Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Healthcare Workers and in Higher Education, Healthcare, and Related Settings.

(D) The following COVID-19 related regulations are superseded or repealed by this Fourth Consolidation:

(1) The Third Consolidated and Restated Emergency Regulation Governing the Control and Prevention of COVID-19 (Consolidated Safety Measures for Full Reopening and Delegation of Authority), as it has been amended.

(2) The Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Individuals Working and Dining at Indoor Dining Locations, as it has been amended.

(3) The Emergency Regulation of the Board of Health Governing the Control and Prevention of COVID-19 Pertaining to Fines and Penalties.

(E) **Delegation of Authority.** In addition to all authority delegated to the Health Commissioner to issue emergency disease control and prevention orders under the Disease Control and Prevention Act and The Philadelphia Code, the Board expressly authorizes the Health Commissioner as follows, provided the Health Commissioner continues to present any substantive changes to this Board's regulations to the Board for consideration at or before the Board's next previously scheduled meeting if reasonably practicable, or at the next subsequent meeting, if not reasonably practicable:

(1) The Health Commissioner may issue orders to provide for the implementation of such further measures as the Health Commissioner determines in good faith are necessary or appropriate control or prevention measures to limit the spread of COVID-19, which may include, but are specifically not limited to any measure previously promulgated or authorized by this Board to control or prevent the spread of COVID-19. Such previously enacted measures are examples but should not be interpreted as limiting the broad authority this Fourth Consolidation grants the Health Commissioner to implement effective control and prevention measures when necessary to do so on an emergency basis.

(2) The Health Commissioner may interpret, issue guidance concerning, relax the requirements of, and otherwise modify in any way all emergency regulations adopted by this Board for the purpose of governing the control and prevention of COVID-19 whether issued before or after the instant Fourth Consolidation, as the Health Commissioner determines in good faith is necessary or appropriate to limit the spread of COVID-19.

(3) The Health Commissioner may delegate, in writing, the authority delegated under paragraph 4 of this Fourth Consolidation to other City Departments or Boards, or Commissioners or heads thereof, as the Health Commissioner determines is appropriate under the circumstances.

(F) Failure to comply with this Fourth Consolidation, any orders issued hereunder, or any of the regulations identified in paragraph C of this regulation, shall result in orders to cease operations and the imposition of penalties, fines, license suspensions, and other civil remedies as provided for under Section 6-103 of The Philadelphia Code, provided that each day a violation of this Regulation continues constitutes a separate violation.

ATTACHMENT A

CITY OF PHILADELPHIA BOARD OF HEALTH

Second Revised Consolidated and Restated Safety Measures for a Continued Full Reopening to Prevent the Spread of SARS-CoV-2 (COVID-19)

Section 1. Generally Applicable Requirements for Masks.

All businesses, organizations, or other establishments that are operating within the City of Philadelphia must allow all individuals, including customers, and employees or other workers to wear masks covering their nose and mouth, as clarified by any guidance issued by the Department, if they choose to do so. Nothing shall be interpreted to prohibit any establishment from implementing masking requirements for such establishment if they choose to do so, nor do these Second Revised Consolidated and Restated Safety Measures for a Continued Full Reopening to Prevent the Spread of SARS-CoV-2 (COVID-19) (the “Consolidated Safety Measures”) relax any face covering requirements mandated by the Commonwealth of Pennsylvania.

(A) Face Coverings Required.

(1) No business, organization, or other establishment shall allow an individual entrance into any indoor location at a healthcare or congregate care facility, as further identified below, that is controlled by such business, organization, or other establishment unless such individual is wearing a face mask or other face covering recommended by the Department of Health regardless of vaccination status of the individual, unless otherwise expressly provided. Individuals are required to wear face coverings properly, which means in a manner that fully covers the mouth and nose, consistent with applicable guidance, at all times when they are at the following locations:

(a) Healthcare Institutions, as defined in the Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Healthcare Workers and In Higher Education, Healthcare, and Related Settings, as it has been or shall be further amended, (“Healthcare Vaccine Mandate”), including temporary indoor community healthcare events such as vaccine clinics and blood drives, except when in an area restricted to only employees. Provided, however, that when an employee returns to work following a high-risk exposure or testing positive for COVID such employee shall mask consistent with Center for Disease Control guidance in all areas, including those restricted to only employees.

(b) Congregate facilities such as prisons, shelters, and adult day programs.

(2) “Indoor” means a location enclosed by three or more walls or other non-permeable barriers and an overhead covering, such as a roof or a tent top. Tents with one side open are considered indoor spaces. In contrast, a space that is fully open on two or more sides is considered an outdoor space.

(B) Exceptions.

(1) Section 1(A)(1) is not applicable with respect to the following individuals:

- (a) Any child younger than 2 years of age.
- (b) Any individual who has a physical disability that prevents easily wearing or removing a face covering.
- (c) Any individual who is deaf and uses facial and mouth movements as part of communication.
- (d) Any individual who has been advised by a medical professional that wearing a face covering may pose a risk to that individual for health-related reasons.
- (e) Any individual who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.

(2) Other exceptions.

- (a) Face coverings are not required to be worn when eating or drinking, provided that eating and drinking may only take place when seated, or when standing at a table with four or fewer people.
- (b) Face coverings are not required when an individual is alone in an office or a similar location that is completely separated from other individuals by floor to ceiling physical barriers.

Section 2. Worker Isolation and Masking Recommendations for Businesses and Workers.

All businesses, organizations, and other establishments that are operating within the City of Philadelphia must comply with the following, as clarified by any guidance issued by the Department:

(A) **Worker Isolation:** Businesses and organizations shall permit any worker who is diagnosed with or tests positive for COVID-19 to remain absent from any in-person workplace during isolation in accordance with guidance from the Philadelphia Department of Public Health or a health care provider. The worker shall isolate in accordance with such guidance.

(B) **Masking Recommendations for Close Contacts:** Businesses, organizations, and other establishments should encourage any worker who is a close contact (within six feet for at least 15 minutes) with a person with COVID-19 from the period 48 hours before symptom onset (or 48 hours prior to test date if asymptomatic) of a person who is diagnosed with or tests positive for COVID-19 to consistently mask when around others in accordance with guidance from the Philadelphia Department of Public Health, which currently recommends the use of a high quality mask, as defined in applicable guidance, for ten (10) days following the date of the last exposure.

Section 3. Additional Responsibility for Masking and Worker Isolation Requirements.

(A) The owner or operator of any business, organization, or other establishment shall also be liable and subject to fines and penalties under this Order for non-compliance by employees, customers, members, visitors and any other occupants of the business with the following, subject to fines and all other remedies under this Order:

(1) With respect to applicable masking requirements under Section 1 of these Consolidated Safety Measures, as clarified by any applicable guidance documents; and

(2) With respect to worker isolation requirements under Section 2(A), excluding the actual isolation requirements which are the responsibility of individual workers, and any other applicable guidance.

Section 4. Interpretation and Implementation.

(A) Except to the extent of a direct conflict, these 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 and regulations to businesses and activities.

(B) The owners, operators, and individuals in possession of any business, organization, or other establishment subject to these Consolidated Safety Measures must allow inspection of ongoing operations as further clarified in any guidance issued by the Department of Health, as a condition of operation.