



**SECOND AMENDMENT TO THE 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 SARS-CoV-2 (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 11, 2020, the Mayor issued a Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process For Regulations Concerning A Novel Coronavirus (known as COVID-19), which continues; and

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

**WHEREAS**, pursuant to Section 6-210 of The Philadelphia Code, the Board has the authority to require the immunization of any person against any communicable disease designated by the Board as one against which immunization is effective; 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**WHEREAS**, since March 12, 2020, the Board has promulgated and rescinded numerous disease control and prevention regulations as needed to address the ebbs and flows of the COVID-19 pandemic; and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**, on August 12, 2021, the Board promulgated the Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Healthcare Workers and in Higher Education, Healthcare, and Related Settings (“Higher Education and Healthcare Vaccine Mandate”), effective August 16, 2021, which was amended August 5, 2022, 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**, 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 have resided with other enrolled individuals and attended classes and events in-person during the last two and half academic years despite surges and variant spikes; 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 symptomatic infection and transmission; and

**WHEREAS**, it is well established that vaccines remain effective against severe disease and death, including against new variants of concern; and

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

**WHEREAS**, the landscape of the pandemic has changed significantly since the Board of Health adopted the Higher Education and Healthcare Vaccine Mandate in August 2021 and last amended it in August 2022; and

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

**WHEREAS**, since the Higher Education and Healthcare Vaccine Mandate was last amended the Department of Health has exercised its enforcement discretion to relax testing and masking requirements in certain circumstances; and

**WHEREAS**, the Board of Health has determined that it is appropriate to amend the Higher Education and Healthcare Vaccine Mandate as provided below given the ongoing changes in the course of the pandemic; and

**WHEREAS**, the ability to both impose and relax disease control and prevention measures quickly to best protect the public health remains critical during the pandemic; and,

**NOW, THEREFORE**, in accordance with its authority under Pennsylvania and Philadelphia law, 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:

The Board of Health Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Healthcare Workers and in Higher Education, Healthcare, and Related Settings is hereby amended as follows (deletions in ~~strike through~~; additions in ***bold italics***):

**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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**1. Definitions.**

**Athletic Training.** The management and provision of care of injuries to a physically active person, with the direction of a physician licensed by the Pennsylvania Board of Medicine, including giving emergency care, and creating injury prevention programs for the physically active person.

**Covered Healthcare Worker.** An individual, including a self-employed individual, who is patient-facing at a location where Healthcare Related Services are provided in person to patients or ~~clients~~, *clients, but excluding individuals who work exclusively in private homes or personal care homes but have no other contact with patients at another location where Healthcare Related Services are provided.*

**Covered Higher Education Individual.** Any ~~individuals~~ *individual over eighteen (18) years of age* who (a) works, volunteers, or attends one or more classes on campus in connection with a Covered 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 Covered Higher Education Institution exclusively through telecommunications devices. *Contractors who do work for a Covered Higher Educational Institution only on a sporadic basis shall not be considered a Covered Higher Education Individual. For this purpose sporadic means work done on an occasional basis that is not predictable.*

**Covered Higher Education Institution.** Any university, college, or junior college, where more than ten percent of the enrolled student population resides in housing provided, rented, sponsored, or contracted by the university, college, or junior college.

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

**Fully Vaccinated.** An individual is considered fully vaccinated when two or more weeks have elapsed since the individual completed the primary vaccine series of a COVID-19 Vaccine, as recommended by the Center for Disease Control, or the World Health Organization.

**Healthcare Institution.** Any person or entity, excluding patients or clients, that employs, coordinates, or otherwise engages the services of Covered Healthcare Workers at a location where healthcare related services are performed or available in person; excluding private homes, personal care homes, and locations which are predominately retail oriented and providing incidental healthcare related services.

**Healthcare Related Services.** Any inpatient or outpatient medical health, inpatient 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.

2. **Regulated Individuals and Establishments.**

(A) **Healthcare Institutions.** No Healthcare Institution shall employ, contract with, or otherwise utilize the services of a Covered Healthcare Worker unless such Covered Healthcare Worker (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.~~ **Regulation.**

(B) **Covered Higher Education Institution.** 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 Covered Higher Education Institution under paragraph 3 of this **Regulation.** ~~Regulation; and complies with one or more accommodation(s) adopted by the applicable Covered Higher Education Institution, if applicable. Covered Higher Education Individuals granted an exception must comply with one or more accommodation(s) adopted by the applicable Covered Higher Education Institution only if fewer than ninety percent (90%) of the Covered Higher Education Individuals at such institution are Fully Vaccinated.~~

(C) **Covered Healthcare Workers.** No Covered Healthcare Worker may work at a Healthcare Institution or provide Healthcare Related Services to a patient or client in Philadelphia unless such Covered 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). ~~(B); 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 Covered 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 Covered Higher Education Institution or Healthcare Institution.~~ Nothing in this Regulation, however, precludes any Covered 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 Covered 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 Covered 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 and each Covered Higher Education Institution at which less than ninety percent (90%) of Covered Higher Education Individuals are Fully Vaccinated, 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 any other applicable regulations promulgated by the Board of Health or any Emergency Orders issued by the Health Commissioner:~~

~~(A) **Routine Testing:**~~

~~a. For Covered 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. This testing requirement shall be suspended during any period that the Health Commissioner has certified to the Board, and posted such certification on the Department’s public webpage, that the Center for Disease Control’s COVID-19 Community Level for the City is “low.”~~

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

~~c. Covered Healthcare Workers not working in Healthcare Institutions (such as those working in private homes) who have an exemption are not required to test.~~

~~(B) **Virtual accommodation:** If feasible, allowing a Covered Individual to engage with the Covered 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. 4. Documentation Required:** Each Covered Higher Education Institution, Healthcare Institution, and Covered 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, and whether or not such exemption request was granted, ~~and the accommodation or accommodations granted to each exempt Covered Individual.~~

~~For these testing accommodations, each Covered Higher Education Institution and Healthcare Institution shall maintain records of all COVID-19 testing for all exempt Covered Healthcare Workers or Covered Higher Education Individuals and shall submit such records upon request by the Department of Health—including routinely pursuant to a standing request for such records. Such records must include the name and position of the individual tested; date of the test; form of test; test result; and reporting format for the test, such as redcap or secure file transfer protocol, as further clarified by any guidance issued by the Department.~~

~~*Asymptomatic screening testing is no longer required. Positive tests should continue to be reported when required by the March 12, 2020 and May 15, 2020 Amendments to Regulations Governing the Control of Communicable and Noncommunicable Diseases and Conditions; or the Sixth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Mandatory Data Reporting Order).* must be provided to the Department as provided in guidance promulgated by the Department to implement the requirements of this Regulation and any other applicable regulations of the Department.~~

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.** Covered Higher Education Institutions, Healthcare Institutions, and Covered Healthcare Workers must allow inspection of records required to be maintained under paragraph 5 4 "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 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.

(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.