

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY RULEMAKING

COVID -19 VACCINATION ATTESTATION REQUIREMENT UPDATE

Healthcare Worker Updated COVID-19 Vaccine Mandate:

Effective November 8, 2022, through emergency rulemaking expiring March 8, 2023, the regulations governing the COVID-19 vaccination mandate for unlicensed and licensed healthcare workers have been **revised**. The emergency rules will remain in effect until March 8, 2023, unless replaced by a subsequent rulemaking prior to March 8, 2023.

- (1) Section 230 (Mandatory COVID-19 Vaccination for Healthcare Workers) has been amended to allow healthcare workers subject to the COVID-19 vaccination requirement to satisfy the mandate by obtaining the Novavax vaccine.
- (2) The revised regulations remove DC Health's requirement that applicants for licensure, certification, or registration submit evidence of COVID -19 primary vaccine, or in the alternative have been granted an exemption, e.g., religious or medical, or have received a vaccination authorized by the World Health Organization (WHO).
- (3) On and after November 8, 2022 (the effective date of the emergency rulemaking), an individual subject to the revised regulations will be exempt so long as the individual has been granted an exemption by a healthcare facility regulated by DC Health.
 - a. The emergency rules further clarify that the healthcare workers subject to the vaccine mandate are those individuals hired by, employed by, contracted with, or granted privileges or credentials by healthcare facilities regulated by DC Health.
 - b. The revised regulations remove provisions that would subject individuals who are covered by the mandate to licensure/certification/registration denial or other disciplinary action for failure to comply with the vaccine mandate.
 - c. The amendments eliminate expired deadlines from prior rulemaking.

- (4) Section 231 (Exemptions from Mandatory COVID-19 Vaccination for Healthcare Workers) has been amended to provide for healthcare facilities regulated by DC Health, rather than DC Health, to grant exemptions from the vaccine mandate.
 - a. A person is entitled to an exemption based on a good faith religious objection or a certification from a licensed health professional that being vaccinated is medically inadvisable, or if the person has received a vaccine that has been approved by the WHO.
 - b. The emergency rulemaking will further remove the temporary exemption based on a vaccine’s emergency use authorization (“EUA”) status.
- (5) Exemptions granted by DC Health, pursuant to the COVID-19 vaccine regulations for healthcare workers effective prior to November 8, 2022, will remain in effect for two years after the date DC Health granted the exemption. Thereafter, healthcare workers subject to the revised regulations must have been granted an exemption by a healthcare facility regulated by DC Health.
- (6) Negotiated Settlement Agreements (NSAs), predicated upon compliance with the COVID-19 vaccine regulations for healthcare workers effective prior to November 8, 2022, are null and void. Individuals who entered into NSAs, pursuant to the COVID-19 vaccine regulations for healthcare workers effective prior to November 8, 2022, must comply with all other requirements for licensure, certification, or registration.
- (7) Denials issued from DC Health for an exemption, pursuant to the COVID-19 vaccine regulations for healthcare workers effective prior to November 8, 2022, are null and void. Denials issued from DC Health for an exemption, pursuant to COVID-19 vaccine regulations for healthcare workers effective prior to November 8, 2022, will not be considered in the review of applications for initial/renewal/re-enrollment for licensure, certification, or registration.
- (8) The emergency rulemaking, effective November 8, 2022, revises Section 4019 (SARS-CoV2/COVID-19 Obligations of Health Professionals) of Chapter 40 (Health Occupations: General Rules) of the DCMR to repeal the authorization for disciplinary action under the District of Columbia Health Occupations Revision Act of 1985 for a person who fails to comply with the vaccination mandate. Additionally, the emergency rulemaking removes the requirement for persons subject to the vaccine mandate to submit proof of vaccination status using DC Health’s online system.

- (9) Healthcare workers who work at facilities that are not regulated by DC Health must comply with their employer's COVID-19 vaccination policy. The revised regulations do not prohibit employers from requiring employees who work at facilities not regulated by DC Health to be vaccinated against COVID-19. Pursuant to subsections 230.3 and 230.4 of the revised regulations, employers may utilize stricter vaccination requirements than those in the revised regulations.

If there is a conflict between this Notification and the Notice of Emergency and Proposed Rulemaking effective 11-08-2022, the Notice of Emergency and Proposed Rulemaking controls.

If you have any questions or concerns regarding this notification, please email:
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