

Adult Foster Home Provider Alert

Policy updates, rule clarifications and announcements

Date: December 20th, 2021
To: APD Adult Foster Home Providers
From: Safety, Oversight and Quality Unit
Topic: Provider Call Questions

To: All APD Adult Foster Home Providers:
Vaccine Mandate

- **The mandate is requiring all healthcare workers to get the vaccine but not our residents, why? Is that going against our rights as providers?**
 - The Oregon Department of Human Services (ODHS) has the authority to establish the minimum standards necessary for holding an adult foster home license. This is not a rights violation but is a licensing standard for individuals choosing to work in a particular field.
- **Can we require our residents to be vaccinated? Do we have the right not to accept the prospect client if they are not vaccinated?**
 - No, resident vaccine status is not an allowable metric for determining if a resident can admit into an AFH. Residents cannot be forced to vaccinate.
- **If all your residents and workers are vaccinated, can you decline to admit an unvaccinated resident to protect others?**
 - No.
- **Will the booster be a requirement?**
 - The Oregon Health Authority (OHA) and Centers for Disease Control and Prevention (CDC) have recommended that all long-term care residents and staff **should** get a COVID-19 booster shot if they are at least 6 months after their initial Pfizer or Moderna series or 2 months after their initial J&J vaccine. Those due for a booster should get it as soon as possible.

For additional information visit: <https://govstatus.egov.com/or-oha-booster-covid-19-vaccine>

- **Is it true that DD workers have a choice of getting tested each week instead of vaccinating?**
 - The DD program has the same requirements in place as providers licensed with Aging and People with Disabilities (APD).
- **Can we require testing as an accommodation?**
 - No processes can be put in place that would replace the need for either completed vaccination or an approved exception.
- **When we first got licensed there was nowhere in any contract that stated this was a requirement. How can it be required now?**
 - The Oregon Administrative Rules (OAR) that set licensing standards in conjunction with Oregon Revised Statutes (ORS) are subject to change and the conditions for holding a license can also change with time.
- **What about kids under 12 not able to get the vaccination, are they still able to live in the foster home?**
 - Yes, this vaccine mandate does not apply to occupants of the AFH.
- **Does the Owner or Licensee who does NOT work in the home but visits now and then need to be vaccinated?**
 - Yes, the vaccine or an exception are a requirement for having an AFH license and business operation.

Vaccine Documentation

- **Who keeps the exception documentation and who approves them?**
 - As business owners, licensees are responsible for approving exceptions for those working within their AFH.
 - **Do we turn in any information about this to the OHA?**
 - No, please keep all records within your own files.
 - **Once I have collected the exceptions and proof of vaccinations and hold them in the employee files, do I need to let anyone know I have done this by October 18th?**
 - No, this is not necessary.
 - **Does the vaccine card need to be in the employee file?**
-

- The caregiver or other staff member will need to keep their original card and the licensee will need to keep a copy in each staff member file.
- **Do I have to use the OHA forms?**
 - Under OAR 333-019-1010, an individual must seek an exception using a form prescribed by the Oregon health Authority, or a similar form that contains the same information required in the OHA form.
- **Where can I access the form that I need to fill out to request a medical or religious exemption from the vaccine requirement?**
 - A: Individuals can access forms at the following links:
 - [COVID-19 Vaccine Medical Exception Request Form](#)
 - [COVID-19 Vaccine Religious Exception Request Form](#)

Vaccine Exceptions

- **The form says exception, not exemption. What does that mean?**
 - No one is exempt from a vaccine as this implies they are not subject to the same rule others are. However, exceptions can be made for those that are not wanting to vaccinate due to medical concerns or a deeply held religious belief.
 - **Who approves the providers exemptions? Do we just fill it out and keep it on file?**
 - As self-employed individuals' providers are responsible for the exception approvals and vaccine data related to themselves and their staff.
 - **Can a provider not accept an exception request?**
 - Yes, this is a business decision on behalf of the provider and they are not forced to accept exceptions.
 - **What if the employee with the exception is a live-in? Are they mandated to wear a mask at all times?**
 - Currently under ODHS policy licensees and caregivers that live in the AFH are not required to wear a mask.
 - **Do forms need to be approved by OHA?**
 - No, they are approved by the licensee.
 - **For religious exceptions do we need just the form, or do we need something extra like for example something from the church?**
-

- There is no signature or statement necessary from church leadership.

Unvaccinated Workers

- **What constitutes as "reasonable steps" to ensure that unvaccinated healthcare providers...are protected from contracting and spreading Covid-19? Routine testing, n95 masks, etc.?**
 - Among possible safety measures, as part of granting an exception to the vaccine requirement, an unvaccinated employee, contractor, or volunteer entering the workplace might be required to wear an N95 face mask, be physically distanced from others while at the workplace, work a modified shift when there are fewer individuals at the workplace, get periodic tests for COVID-19, or finally, accept a reassignment. Safety measures that an employer imposes will depend on the employee's position duties and work environment among factors. If feasible, employers may consider granting certain accommodations on a temporary basis and reviewing again after a specified period.
 - **Can a provider ask staff to test every two weeks?**
 - Yes. In connection with your exception request, you may be required by your employer or other responsible party to take additional steps to protect you and others from contracting and spreading COVID-19, which may include additional policies. Workplaces are not required to provide an exception accommodation if doing so would pose a direct threat to the excepted individual or others in the workplace or would create an undue hardship.
 - **Is it legal to advertise for caregivers with the requirement that they must be fully vaccinated to apply for the job?**
 - Employers should consult with their legal counsel on issues of legal liability and employment law.
 - **If I let someone go for not having the vaccine, can I be sued?**
 - Employers should consult with their legal counsel on issues of legal liability and employment law.
-

- **What about caregivers not wanting to vaccinate? What is being done to help us with employee retention?**
 - ODHS recognizes the potential impact on caregiving staffing, and we are working to ensure mechanisms are in place that will assist providers as needed.
- **What happened is a caregiver refuses to get vaccinated and wants to pay out of her pocket covid test before her shift?**
 - Testing is not an alternative to having either the vaccine or a documented exception.
- **Are we liable if we employed a non-vaccinated caregiver and someone becomes ill?**
 - Employers should consult with their legal counsel on issues of legal liability.

Vaccines and Privacy

- **Are we required to disclose to residents which staff is vaccinated or is that private?**
 - No, this is private information. People may speak of their vaccination status should they choose to, but no one should share that information with residents or family members on their behalf.
- **How are we protected from legal actions when we are being asked to give out their protected health information?**
 - No one is being asked to give this information out nor is it made readily available to the public. The information gathered is to be kept in the staff file and is only shared when necessary during state audits and complaint investigations.

Vaccine Safety and Efficacy

- **How can the vaccine be mandated when it isn't 100% proven?**
 - Vaccines are an effective tool in preventing individuals from contracting COVID-19 and in minimizing the symptoms of COVID-19 when individuals become infected. The Food & Drug Administration requires rigorous safety testing. Millions of Americans have now been vaccinated, and strict ongoing safety checks have revealed no concerns.
 - **How do we know what is in the vaccine?**
-

- Vaccine ingredients vary by manufacturer. You can find more information on the Centers for Disease Control and Prevention website by clicking here: [CDC](#)
- **If this is due to trying to protect older adults, do you have a plan to educate the residents to take the vaccine? Or it's is just about exerting pressure on the health providers?**
 - The first aim of the mandate is to ensure that those that are most vulnerable are receiving care in a safe, secure environment. It also serves to protect those that are not able to choose to accept the vaccine due to underlying health conditions. ODHS and OHA have made materials available to those that are experiencing vaccine hesitancy to help them to make an informed decision.

Vaccine Mandate Enforcement

- **How will OHA enforce the rule?**
 - OHA may issue civil penalties to employers of healthcare providers or healthcare staff, contractors or responsible parties who violate any provision of the rule, of \$500 per day per violation.
- **What will the fine or fees be if the deadline for vaccination is not met?**
 - The fine established in OHA rule is \$500 per day per violation.
- **Will taking an exception keep us from being renewed?**
 - No, ODHS will not be taking the position of closing adult foster home for failure to vaccinate or allowing an exception.

On-going Vaccine Support

ODHS and OHA are supporting care providers who serve older adults and people with disabilities to ensure that they are accessing available COVID-19 vaccine including booster shots and third doses. OHA maintains an online technical assistance form through which providers or individuals may request assistance getting access to COVID-19 vaccine. The technical assistance form may be found here: [Vaccine Support Request](#)

If you have additional questions about the information in this provider alert, please email APD.AFHteam@dhsaha.state.or.us
