



MEDBRIDGE

Navigating the COVID-19 Vaccination Requirements: A Guide for Healthcare Leaders

Lisa A. Gorski, RN, MS, HHCNS-BC, CRNI, FAAN, and Nancy Allen, BSN, RNC, CMC

Overview

The COVID-19 pandemic continues to evolve and present new challenges for healthcare organizations. Now, the newly reinstated mandate from The Centers for Medicare & Medicaid Services (CMS) is requiring healthcare employees to get vaccinated, yet many employees are concerned or hesitant about getting the vaccine.

MedBridge wants to help. In this guide, we'll provide:

- Key things to know about the CMS federal mandate, including why rehab therapy providers in private practice are exempt.
- Tips for navigating difficult conversations.
- Resources to help engage staff members who are experiencing burnout due to the stress of the pandemic.
- Practical advice on complying with the mandate from other healthcare organizations.

Please note: Some details reported in this guide are dynamic and could continue to change, although at this time it appears unlikely that appeals courts will reach a decision different from the Supreme Court's on January 13, 2022. This guide was last updated on January 26, 2022.

Table of Contents

- [What to know about the CMS vaccine mandate](#) 3
- [A closer look at the CMS exemptions](#) 5
- [Getting started with your COVID-19 communication strategy](#) 6
- [Navigating difficult conversations](#) 7
- [Managing staff burnout](#) 9
- [How other healthcare organizations are navigating the mandate](#) 10
- [Conclusion](#) 12
- [References](#) 12



What to know about the CMS vaccine mandate

- In September 2021, as part of the Path Out of the Pandemic, the Biden-Harris Administration announced that it would require COVID-19 vaccination of all staff within Medicare- and Medicaid-certified facilities.¹
- CMS released its [final interim rule](#) on November 4, 2021, which was subsequently challenged by 25 states in two separate lawsuits. Federal courts in Missouri and Louisiana then issued temporary injunctions that resulted in the mandate being blocked in those states.²
- On January 13, 2022, the U.S. Supreme Court reinstated the CMS mandate across all 50 states except Texas, where a preliminary injunction was still in effect. On January 19, 2022, a federal court dismissed the Texas lawsuit, making the CMS mandate enforceable nation-wide.³
- The CMS mandate requires full vaccination of healthcare providers and staff in the District of Columbia, U.S. territories, and the other 24 states that didn't challenge the mandate by February 28, 2022. Providers in states covered by the recent Supreme Court decision must be fully vaccinated by March 15, 2022,⁴ while those in Texas need to have received both vaccine doses by March 21, 2022.⁵ For more details on these requirements, including deadlines for establishing a vaccine policy and delivering first doses, please refer to the [CMS Guidance for the Interim Final Rule](#).
- The CMS mandate applies to [any facility regulated by Medicare Conditions of Participation or Conditions for Coverage](#).

The CMS mandate applies to [any facility regulated by Medicare Conditions of Participation or Conditions for Coverage](#).

What to know about the CMS vaccine mandate continued

- An organization's vaccine policy must allow staff to seek exemptions in accordance with federal law and include a contingency plan for those unvaccinated.
- The CMS rule doesn't allow employees to choose a weekly testing option in place of vaccination.
- Healthcare facilities found not complying with the CMS mandate requirements will likely be given a warning and a chance to comply. But CMS has stressed that it will exercise its full authority to bring organizations into compliance with the mandate.
- Rehab therapy providers in private practice aren't required to comply with the CMS mandate according to the APTA because they're not subject to these Medicare conditions.⁶

With time of the essence, it's important to be prepared with a solid strategy for communicating with your employees about the vaccine.

Rehab therapy providers in private practice aren't required to comply with the CMS mandate according to the APTA because they're not subject to these Medicare conditions.⁶

A closer look at the CMS exemptions

CMS does allow some exemptions to the vaccine and has provided initial guidance around how to document them. Here are answers to some of the most common questions about exemptions.

Q: Who qualifies for an exemption?

A: Organizations are required to allow employees to seek exemptions for both medical and religious reasons, under the Americans with Disabilities Act and the Civil Rights Act of 1964.

Q: What is the process for staff to seek a religious exemption?

A: Organizations can establish their own processes for permitting staff to request religious exemptions. Requests must be documented and evaluated in accordance with applicable federal law and as a part of the organization's policies and procedures.

Q: What is the process for seeking a medical exemption?

A: Similar to religious exemptions, organizations can establish their own processes for permitting staff to request a medical exemption. However, organizations must document which of the authorized COVID-19 vaccines are clinically contraindicated, and why. The documentation must be signed and dated by a licensed practitioner who is not the individual requesting the exemption and is acting within their respective scope of practice. A statement is expected by the authenticating practitioner recommending that the staff member be exempted.

Q: Are employees exempt if they can show that they have COVID-19 antibodies?

A: No. Staff members who have had COVID-19 aren't exempt, although in some cases the vaccine requirement can be temporarily delayed due to a recent diagnosis.

HELPFUL RESOURCES

[CMS COVID-19 Final Rule FAQ](#)



Getting started with your COVID-19 communication strategy

As you create your COVID-19 strategy, here are some key areas to consider:

- [Stay informed about HIPAA](#) and [Equal Employment Opportunity Commission \(EEOC\)](#) laws governing what you can and cannot say to employees about the vaccine, and what actions you're allowed to take.
- Be aware that the federal EEOC laws do not prevent an employer from requiring all employees physically entering the workplace to be fully vaccinated against COVID-19, subject to the reasonable accommodation provisions of Title VII and the ADA and other EEOC considerations.⁵
- Be sure that you comply with federal requirements regarding how you verify and document the vaccine status of your employees.
- Understand that for some employees, the vaccine requirement is contrary to their core beliefs, putting them in the difficult position of needing to choose between their beliefs and their employment. For this reason, empathetic listening is essential.



Navigating difficult conversations

Because many people are uncomfortable with or uncertain about the COVID-19 vaccine, it might be challenging to talk to some of your employees about it. Here are our top recommendations for communicating clearly and respectfully about this complex issue.

Communicate proactively and transparently with your staff.

To stay ahead of the curve, it might be beneficial to determine and communicate your organization's vaccine policy in advance of the CMS policy. Leaving staff in the dark could leave them uncertain about their future and cause unnecessary stress.

Be clear about timeline and impact. For example, you might send out an email explaining that employees need to get vaccinated by a certain date in order to continue coming into work. Include the legal reasons for your policy as well as information about any applicable exemptions, and thank your employees for helping to do their part to keep patients and other staff members safe.

Lean on trustworthy information sources. You don't need to be an expert in immunology to have a conversation with your team about the vaccine. Reference sources like the Centers for Disease Control (CDC), the American Medical Association, and the National Academy of Medicine for information about the science behind the vaccine and its safety.

ADDITIONAL RESOURCES FOR TALKING WITH YOUR STAFF

The [CDC Vaccinate with Confidence Program](#), a strategic framework designed by the CDC to strengthen vaccine confidence and prevent outbreaks of vaccine-preventable diseases in the United States.

National Safety Council's [Workplace Guide to the Vaccine Conversation](#)

[CDC conversation guides for healthcare providers and staff](#)

Navigating difficult conversations continued

Listen to your staff's concerns. For many employees not yet vaccinated, the vaccine mandate is not in alignment with their core beliefs. Try to understand where individual staff members are coming from, meet them where they are, and encourage managers to practice empathetic listening.

Another important practice that might help you navigate difficult conversations about the vaccine is motivational interviewing, which helps educate, inspire, and motivate.

Don't pressure. It's important not to pressure those who have strong feelings founded on their reasoning about not getting vaccinated. Make time to listen to your staff and ensure they feel heard.

Promote a positive message. Acknowledge employees who have received the vaccine for their health and the health of others, and hang posters that list nearby vaccine locations and reinforce the ease and safety of getting vaccinated.

Offer alternative options if you can. Instead of terminating employees who don't get vaccinated, consider placing them on unpaid leave or allowing them to work remotely if at all possible.

Consider incentivizing vaccination. Some organizations have implemented reward programs to incentivize staff getting vaccinated, providing cash or gift cards for staff members who get the shot. Many organizations are also providing paid time off for employees getting vaccinated or recovering from side effects. These incentives don't necessarily need to come out of your organization's pocket. Take a look at programs like [Flex for Checks](#), which gives cash rewards to healthcare workers who get the vaccine.

LEARN MORE ABOUT
MOTIVATIONAL INTERVIEWING

**Check out these
MedBridge courses:**

[Lifestyle Discussions and
Motivational Interviewing](#)

Learn the fundamentals of motivational interviewing to inspire behavior change.

[Curb Your Crisis: When
Drive is in Low Gear](#)

If your staff members are anxious about the COVID-19 vaccine, bring back the focus with these four motivational interviewing approaches.



Managing staff burnout

It's been an extremely challenging couple of years for all types of healthcare workers. Many people have had to work longer hours, face uncertainty in their work and personal life, confront the health risks of being on the front lines, potentially experience the loss of friends or family members due to the virus, and deal with many other challenges presented by the COVID-19 pandemic.

Even before the pandemic, burnout was a problem for healthcare workers—but now that problem is turning into a crisis for some on the front lines. [A recent survey](#) from the American Nurses Foundation found that the pandemic is causing 92 percent of nurses to consider leaving their jobs, with nearly half citing insufficient staffing as the primary reason.

Chronic stressors like these can lead to your staff feeling not just exhausted, but demoralized. Letting your employees know that you care and are there to help them as much as possible can go a long way in helping them feel heard, acknowledged, and valued. Important actions to take include:

- Establish a provider wellness committee that includes provider liaisons from each department of your organization.
- Ask employees for suggestions on what would make their jobs easier from day to day. While some of these things might be more difficult to solve, others might be impactful but easier to address, such as frequently used copiers not working properly.
- Educate employees on the signs of stress and burnout.
- Provide the opportunity for your employees to connect with their peers through a support group or peer-to-peer coaching program. Programs like these can help healthcare workers combat feelings of isolation, share frustrations and solutions, and get past the mindset that they should never complain.
- Provide your employees with a list of on-site and community resources for managing stress and burnout.
- Allow employees to take mental health days when needed.

RESOURCES FOR HELPING YOUR EMPLOYEES WITH BURNOUT

National Academy of Medicine:
[Clinician Well-Being Strategies During COVID-19](#)

MedBridge:
[Addressing Burnout in Healthcare: course series by Erika del Pozo](#)

[Social Isolation, Occupational Disruption, and Mental Health in COVID-19 \(Recorded Webinar\)](#)

How other healthcare organizations are navigating the mandate

What specific challenges related to the vaccine mandate are other healthcare organizations facing, and what policies and solutions have they implemented? To find out, we talked with Pivot Physical Therapy and Interim HealthCare of the Upstate.



Chris Roosa, VP of Clinical Services at Pivot Physical Therapy

What, if any, policies have you implemented with your staff as it relates to the COVID-19 vaccine?

Pivot has used regular communication, education, and incentives to increase the number of vaccinated staff, which has been successful in improving vaccination compliance and increased reporting to our Human Resources Department for proper tracking. We regularly promote getting vaccinated by providing education through email communication and video content created by our staff medical directors. It is also important to note that Pivot continues to maintain a mandatory mask policy, stringent hygiene, and facility cleaning, as well as social distancing guidelines in our clinics. Our clinic leaders communicate daily with staff members and our clients about possible COVID-19 symptoms in order to assure the safest clinical environments during the pandemic. Pivot will continue to reassess the guidelines and government mandates as they change.

Has your staff expressed any concerns or hesitation about getting vaccinated?

Yes, some staff have expressed hesitation about getting vaccinated. Some have personal health or religious reasons, and may request exemptions from the mandates. As things continue to evolve with government vaccine mandates, Pivot will evaluate ways to keep our employees working safely.

How have you responded to these concerns?

We will comply with the government mandates, but as part of our people-centered culture, we want to offer options to staff members who have valid reasons for choosing not to be vaccinated. At the same time, Pivot does promote that everyone consider getting vaccinated as soon as possible. We've communicated that this is a government initiative and decision to mandate the vaccine and not a Pivot mandate. We continue to provide regular communication and education to our employees, as well as evaluate new ways to improve the numbers of those vaccinated. We implemented an employee vaccination incentive to enter a weekly gift card lottery, which was successful in substantially improving our vaccination rate.



Charles McDonough, CEO at Interim HealthCare of the Upstate

What has been your strategy so far related to the COVID-19 vaccine mandate?

We're trying to get ahead of everything rather than wait for the hammer to drop, and have put out as much transparent information as possible. We're not trying to punish anyone, but are trying to be proactive and keep everyone safe. We're very concerned about all individuals affected by these policies, but being consistent with our mission statement, we intend to be compliant with these policies. Unfortunately we could have up to 15 percent of our employees walking out the door. But we're trying to figure out how to lessen the impact through standardization of care, technology, care innovations, and better efficiency.

We've also tried to be proactive about collecting information on vaccine status, and have been asking our staff to disclose that information for a few months now. We knew that some type of regulation would be coming, so we wanted to be proactive about collecting that information instead of scrambling to get it at the last minute.

Have you encouraged your employees to get the vaccine?

We've gone into full-blown education mode and have pointed people back to the science and all available medical information. We've been vaccinating staff and community members, and have incentivized the vaccine by participating in the Flex for Checks program, where employees get cash for getting vaccinated and for helping friends do so as well. We've also partnered with community leaders such as ministers in local faith organizations to help hesitant employees gain trust in the vaccine.

How have you supported your staff as they navigate this uncertainty?

I maintain an open door policy with my staff and have had a number of frank conversations with staff about the vaccine and these mandates. There's a lot of social pressure and stigma in our area around the vaccine; many people want to keep their job, but are concerned that they will be criticized by their friends and family if they get the vaccine. I've tried to be open to having those conversations, and have even met with employees for "off the record" conversations at a coffee shop. It's a difficult and uncertain time, but I've tried to make myself and our leadership team available to talk through our staff's concerns in a way that helps them not feel judged or pressured.

Conclusion

COVID-19 hasn't been easy for healthcare organizations worldwide, and employee hesitation to vaccinate in the face of federal mandates is one of the latest hurdles we're facing across the industry. But organizations can more successfully navigate the mandates and many other pandemic-related challenges by taking an employee-focused approach based on communicating with your staff using candor, optimism, and empathy; listening to and addressing their concerns; and applying effective strategies for reducing staff burnout. By doing so, your organization will be much more likely to improve staff buy-in and morale as you roll out your vaccine program and move forward through these evolving times.

References

- 1 CMS.gov, Sept. 9, 2021. Biden-Harris Administration to expand vaccination requirements for health care settings. <https://www.cms.gov/newsroom/press-releases/biden-harris-administration-expand-vaccination-requirements-health-care-settings>
- 2 National Law Review, Dec. 15, 2022. Red Light — Green Light: CMS Vaccination Mandate is On Again in 26 States? <https://www.natlawreview.com/article/red-light-green-light-cms-vaccination-mandate-again-26-states>
- 3 Becker's Hospital Review, Jan. 19, 2022. CMS healthcare worker COVID-19 vaccination mandate enforceable nationwide after Texas suit dismissed. <https://www.beckershospitalreview.com/legal-regulatory-issues/cms-healthcare-worker-covid-19-vaccination-mandate-enforceable-nationwide-after-texas-suit-dismissed.html>
- 4 Becker's Hospital Review, Jan. 19, 2022. CMS healthcare worker COVID-19 vaccination mandate enforceable nationwide after Texas suit dismissed. <https://www.beckershospitalreview.com/legal-regulatory-issues/cms-healthcare-worker-covid-19-vaccination-mandate-enforceable-nationwide-after-texas-suit-dismissed.html>
- 5 InsideHealthPolicy, Jan. 20, 2022. CMS Issues New COVID-19 Vaccine Mandate Deadlines For Texas. <https://insidehealthpolicy.com/daily-news/cms-issues-new-covid-19-vaccine-mandate-deadlines-texas>
- 6 APTA.org, Nov. 5, 2021. The Vaccine Rule: 6 Things to Know Right Now. <https://www.apta.org/news/2021/11/05/cms-vaccine-rule>
- 7 Thompson Reuters Legal, Sept. 15, 2021. What do employers need to know about COVID-19 vaccination mandates? <https://legal.thomsonreuters.com/blog/covid-workplace-vaccine-practical-law-qa/>

About the Authors



Lisa A. Gorski, RN, MS, HHCNS-BC, CRNI, FAAN

Lisa A. Gorski has worked for more than 30 years as a clinical nurse specialist (CNS) for Wheaton Franciscan Home Health & Hospice, now part of Ascension at Home in Milwaukee, Wisconsin. As a CNS, she has developed and oversees the home infusion therapy program, provides staff education, and is involved in agency quality assessment, performance improvement, infection control, and surveillance. She also provides direct patient care. Lisa received both her bachelor's and master's degrees from the University of Wisconsin-Milwaukee College of Nursing. Her graduate school work focused on the chronically ill patient population. Within her home care agency, she has also focused extensively on preventing hospitalizations, including a focus on the heart failure and chronic obstructive pulmonary disease patient populations. Lisa served on the American Nurses Association committee and helped develop the American Nurses Association Home Health Nursing Scope and Standards of Practice. In 2006, Lisa was inducted as a fellow into the American Academy of Nursing. She was named the 2003 CRNI of the Year by INS and the 2011 CNS of the Year by the National Association of Clinical Nurse Specialists.



Nancy Allen, BSN, RNC, CMC

Nancy E. Allen, BSN, RNC, CMC, is the owner and CEO of Solutions for Care, Inc., a consulting company specializing in community-based healthcare and care management. Her experience includes clinical, administrative, and provider roles as well as ten years as a state and accreditation surveyor. She has served as a Corporate Integrity Monitor for the Office of Inspector General and as a Medicare Hearing Officer for the Medicare Fair Hearing Department of CMS, where she conducted and adjudicated federal administrative hearings. With a team from the University of Hawaii, Nancy serves in the Pacific Islands of the Republic of Palau and American Samoa as an educator and developing community-based healthcare. She is a contributing author to *The Handbook for Home Health Administration* and numerous articles in healthcare publications. Her book, *Survivor! Ten Practical Steps to Survey Survival*, has helped many achieve deficiency-free surveys.