COLORADO
Department of Public Health & Environment

To: Members of the State Board of Health

From: D. Randy Kuykendall, Director, Health Facilities and Emergency Medical Services Division (DRK)

Date: August 30, 2021

Subject: Emergency Rulemaking Hearing concerning 6 CCR 1011-1, Chapter 2- General Licensure Standards and the COVID-19 Vaccine.

On August 17, 2021, Governor Polis sent a letter to the State Board of Health requesting that the Board immediately consider rulemaking mandating the COVID-19 vaccination for all individuals "involved in health care and support staff who regularly come into contact and share spaces with vulnerable populations including patients seeking medical care in essential medical settings and in congregate senior living facilities." In response to this request, the Department has drafted the following proposed regulations, which meet the intent of the Governor's request within the bounds of the Department's statutory authority.

The Department has authority to enact and enforce regulations over all licensed healthcare facilities and agencies: Acute Treatment Units, Ambulatory Surgical Centers, Assisted Living Residences, Behavioral Health Entities, Birth Centers, Community Clinics, Community Clinics with Emergency Centers, Community Integrated Health Care Services Agencies, Community Mental Health Centers, Dialysis Treatment Clinics, Freestanding Emergency Departments, Home Care Agencies, Home Care Placement Agencies, Hospices, Hospitals (General, Rehabilitation, Psychiatric, and Hospital Units), Facilities for Individuals with Intellectual and Developmental Disabilities (Group Homes and Intermediate Care Facilities), and Nursing Homes. The Department does not have authority over individual healthcare practitioners or staff, nor does it oversee other settings where patients seek medical care including primary care offices and urgent care locations. However, the Department anticipates the proposed regulations will have an immediate, widespread, and positive impact on the health, safety, and welfare of Coloradans, as they will apply to many of the employees of the approximately 3800 licensed healthcare facilities and agencies regulated by the Department. Accordingly, the Department requests the Board adopt the following regulations requiring all licensed healthcare facilities ensure their employees and direct contractors are fully vaccinated against COVID-19 by October 31, 2021.

Findings Pursuant to Section 24-4-103(6), C.R.S.
In response to COVID-19, Governor Polis verbally declared a disaster emergency on March 10, 2020, and issued the corresponding Executive Order D 2020 003 on March 11, 2020. Since that time there have been 7,327 deaths due to COVID-19 in Colorado, 2,625 of which occurred in licensed healthcare facilities. Although the COVID-19 vaccine is now widely available, approximately 30% of the healthcare workforce in these facilities and agencies remain unvaccinated. With the rise in the Delta variant, ensuring that all workers in licensed healthcare facilities are vaccinated is one of the most effective means the state can take to protect the public health, safety, and welfare of all Coloradans and end this ongoing pandemic. Studies show that the rate of hospitalization due to COVID-19 infection is greatest in the unvaccinated. As Colorado approaches the back-to-school and influenza seasons, it is imperative the Department takes all available measures to increase vaccination rates to keep as many Coloradans as healthy as possible in order to reduce the burden on the already overstretched healthcare system and workforce. Therefore, the Board finds that immediate adoption of these revisions is imperative to preserve the public health, safety and welfare,

and that compliance with the normal rulemaking requirements of Section 24-4-103, C.R.S. would be contrary to the public interest.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY AND FINDINGS IN SUPPORT OF ADOPTION OF EMERGENCY REVISIONS TO
6 CCR 1011-1, Standards for Hospitals and Health Facilities
Chapter 2 – General Licensure Standards

Basis and Purpose.

In response to COVID-19, Governor Polis verbally declared a disaster emergency on March 10, 2020, and issued the corresponding Executive Order D 2020 003 on March 11, 2020. Since that time there have been 7,327 deaths due to COVID-19 in Colorado, 2,625 of which occurred in licensed healthcare facilities. With the rise in the Delta variant, ensuring that all workers in licensed healthcare facilities are vaccinated is one of the most effective means the state can take to protect the public health, safety, and welfare of all Coloradans and end this ongoing pandemic. As Colorado approaches the back-to-school and influenza seasons, it is imperative that the Department takes all available measures to increase vaccination rates to keep as many Coloradans as healthy as possible to reduce the burden on the already overstretched healthcare system and workforce.

On August 23, 2021, the FDA announced that it had granted full approval to the Pfizer/BioNTech COVID-19 vaccine (now known as Comirnaty) for individuals age 16 and older. Prior to this announcement, Colorado (and many other states) had seem some businesses enact mandatory vaccination requirement for their staff. Additionally, there is a movement on the federal level to require full vaccination among healthcare workers, with an announcement that the Centers for Medicare and Medicaid Services will promulgate an emergency regulation to this effect for nursing homes. While these different measures will certainly affect some areas of the Colorado's healthcare system, enacting the proposed regulations ensures parity across facility types.

Furthermore, the Department recognizes the concern that enacting these proposed regulations may cause a decrease in the healthcare workforce, as individuals may choose to leave the field rather than obtain a vaccine. The Department is cognizant of these concerns, and continues to work to increase its staffing support and hopes to be able to fill any gaps that may result from the proposed revisions. Additionally, the Department believes enacting these regulations will have a positive impact on the workforce, by lessening the strain felt by the entire system when staff and employees become infected with COVID-19. While the Department has identified only 16 total deaths among facility staff; however, there have been 13,062 total cases among facility staff. Each time a staff member tests positive, there is an impact to that individual's coworkers in increased workload and acute staffing shortages as more staff get sick and/or have to quarantine. Increasing the overall staff vaccination rate should decrease the amount of positive cases amongst staff, in addition to patients and clients.

The Department has authority to enact and enforce regulations over all licensed healthcare facilities and agencies: Acute Treatment Units, Ambulatory Surgical Centers, Assisted Living Residences, Behavioral Health Entities, Birth Centers, Community Clinics, Community Clinics with Emergency Centers, Community Integrated Health Care Services Agencies, Community Mental Health Centers, Dialysis Treatment Clinics, Freestanding Emergency Departments, Home Care Agencies, Home Care Placement Agencies, Hospices, Hospitals (General, Rehabilitation, Psychiatric, and Hospital Units), Facilities for Individuals with Intellectual and Development Disabilities (Group Homes and Intermediate Care Facilities), and Nursing Homes. The Department does not have authority over individual healthcare practitioners or staff, nor

does it oversee other settings where patients seek medical care, including primary care offices and urgent care locations.

Although the COVID-19 vaccine is now widely available, approximately 30% of the healthcare workforce in these facilities and agencies remain unvaccinated. The Department currently collects data on vaccination rates among long-term care facilities, (Nursing Facilities, Assisted Living Residences, and Group Homes/Intermediate Care Facilities), which is a small subset of the licensed facilities regulated by the Department. In these settings, 27% of staff remain unvaccinated. However, when examining historical flu vaccination data for the same facility-types, the unvaccinated rate among staff is only 15%. One major difference is that since 2012 the Department has had regulations in place requiring facilities to implement policies and procedures requiring flu vaccinations among staff members with the potential for exposure to the flu.

While the existing flu regulation served as a baseline for these proposed regulations, there are differences. The first major difference is the expectation that facilities and agencies maintain 100% vaccination among eligible employees, direct contractors, and support staff. Based on the nature of the COVID-19 virus, especially the airborne spread, the Department anticipates the category of eligible individuals will be quite broad. However, each facility/agency will have the ability to identify individuals it has determined are safe to be exempt from this requirement in its policies and procedures, with justification for that decision. Additionally, the reporting requirements in the proposed regulations are more robust than the current flu regulation. Rather than annual reporting, the proposed regulations require twice monthly reporting, beginning October 1, 2021. This will enable the Department to maintain comprehensive and current data on the rate of vaccination among staff in licensed healthcare facilities, track trends to ensure the rates continue to increase, and identify facilities and agencies that may need technical assistance complying with the regulations. The Department anticipates it will modify the reporting requirements for the future state after conducting further stakeholder engagement.

The Department anticipates these regulations will have an immediate, widespread, and positive impact on the health, safety, and welfare of Coloradans, as they will apply to most of the employees of the approximately 3800 licensed healthcare facilities and agencies regulated by the Department. Accordingly, the Department requests the Board adopt the following regulations requiring all licensed healthcare facilities to ensure their eligible employees, direct contractors, and support staff are fully vaccinated against COVID-19.

Specific Statutory Authority.
Statutes that require or authorize rulemaking:

Section 24-4-103(6), C.R.S.
Section 25-1.5-102, C.R.S.
Section 25-1.5-103, C.R.S.
Section 25-3-103, C.R.S.

Is this rulemaking due to a change in state statute?

_____ Yes, the bill number is _____. Rules are ___ authorized ___ required.
___X__ No

Does this rulemaking include proposed rule language that incorporate materials by reference?

_____ Yes ___ URL

___X_ No

Does this rulemaking include proposed rule language to create or modify fines or fees?

_____ Yes

___X_ No

Does the proposed rule language create (or increase) a state mandate on local government?

___X__ No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

REGULATORY ANALYSIS FOR EMERGENCY REVISIONS TO
6 CCR 1011-1, Standards for Hospitals and Health Facilities
Chapter 2 – General Licensure Standards

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/S/B
All licensed healthcare facilities and agencies (as listed below)	3800 total	C
Acute Treatment Units		
Ambulatory Surgical Centers		
Assisted Living Residences		
Behavioral Health Entity		
Birth Centers		
Community Mental Health Center		
Community Clinic		
Community Integrated Health Care Services Agency		
Dialysis Treatment Clinics		
Home Care Agencies		
Home Care Placement Agencies		
Hospice		
Hospitals		
Facilities for Individuals with Intellectual and Developmental Disabilities		
Nursing Homes		
Patients/clients receiving care and services from a licensed healthcare facility or agency	Over 63,000 (based on the number of licensed beds across all facility/agency types)	B
Employees and Direct contractors of licensed healthcare facilities and agencies.	Unknown	B

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

C = individuals/entities that implement or apply the rule.
S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

C: The potential impact upon the healthcare facilities and agencies that will implement this requirement include: decreased number of positive COVID-19 cases, outbreaks, and deaths experienced in licensed healthcare facilities, decreased costs incurred as a result of staff and client illness, increased positive outcomes for patients and clients, decreased number of staffing shortages related to COVID-19 illness or exposure, and a decrease in the overall healthcare workforce if healthcare providers and support staff choose to leave the profession as a result of this requirement.

B: The impact upon clients, patients, and residents served in and by licensed healthcare facilities and agencies will be lessened exposure to COVID-19, decreasing their chances of experiencing illness or death as a result. The impact upon employees of licensed healthcare facilities and agencies will be that these individuals are also at a decreased risk of exposure in the workforce. However, some of these individuals may choose to leave employment in this field due to these requirements.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

A. Anticipated CDPHE personal services, operating costs or other expenditures:

The proposed amendments are cost neutral.

Anticipated CDPHE Revenues:

The proposed amendments are revenue neutral.

B. Anticipated personal services, operating costs or other expenditures by another state agency:

N/A

Anticipated Revenues for another state agency:

N/A

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Along with the costs and benefits discussed above, the proposed revisions:

___ Comply with a statutory mandate to promulgate rules.
___ Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
_X__ Maintain alignment with other states or national standards.
___ Implement a Regulatory Efficiency Review (rule review) result
_X__ Improve public and environmental health practice.
_X__ Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO2e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO2e per year by June 30, 2020 and to 113.144 million metric tons of CO2e by June 30, 2023. ___ Contributes to the blueprint for pollution reduction ___ Reduces carbon dioxide from transportation ___ Reduces methane emissions from oil and gas industry ___ Reduces carbon dioxide emissions from electricity sector
Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023. ___ Reduces volatile organic compounds (VOC) and oxides of nitrogen (NOx) from the oil and gas industry. ___ Supports local agencies and COGCC in oil and gas regulations. ___ Reduces VOC and NOx emissions from non-oil and gas contributors
Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020 and by 12,207 by June 30, 2023. ___ Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes. ___ Increases physical activity by promoting local and state policies to improve active transportation and access to recreation. ___ Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.
Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023. ___ Ensures access to breastfeeding-friendly environments.
Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023. ___ Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023. ___ Performs targeted programming to increase immunization rates. ___ Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).
Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023. ___ Creates a roadmap to address suicide in Colorado. ___ Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate.

___ Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries. ___ Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.
The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020. ___ Conducts a gap assessment. ___ Updates existing plans to address identified gaps. ___ Develops and conducts various exercises to close gaps.
For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023. ___ Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident. ___ Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment. ___ Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.
100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023. ___ Implements the CDPHE Digital Transformation Plan. ___ Optimizes processes prior to digitizing them. ___ Improves data dissemination and interoperability methods and timeliness.
10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561 metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023. ___ Reduces emissions from employee commuting ___ Reduces emissions from CDPHE operations
11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023. ___ Used a budget equity assessment

____ Advance CDPHE Division-level strategic priorities.

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

Inaction has neither monetary cost nor benefit; however, inaction will result in the further spread of COVID-19 across the state of Colorado. This will result in increased

burden on an already overtaxed healthcare system, including the healthcare workforce, economic burdens as individuals are unable to work due to illness or quarantine requirements, disruptions in learning for students K-12, and increased deaths across all sectors of our population.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   The less costly or less intrusive methods available in this scenario are for employees, direct contractors, and support staff to voluntarily receive the COVID-19 vaccination and/or for employers to enact vaccination requirements on an individual basis. While that approach has led to a majority of the healthcare workforce receiving the COVID-19 vaccine, approximately 30% of the healthcare workforce remains unvaccinated, and large sectors of the healthcare industry that have not enacted individual vaccination mandates. As such, this regulation is the next step to ensure vulnerable Coloradans are protected from the spread of COVID-19.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

   There were no alternatives to rulemaking considered except inaction. For the reasons set forth in the above, inaction will result in the further spread of COVID-19 across the state of Colorado, including in our licensed healthcare facilities.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

   The Department utilized data collected from various sources by different programs across the Department. This includes information from the Outbreak team on deaths, flu data from the immunization branch, and reported vaccination rates from EMResource. Much of this data is publicly available on the Department website. Flu vaccination information is found at: https://cdphe.colorado.gov/immunization-rates-reports-and-data. COVID-19 data is found at: https://covid19.colorado.gov/data.

   The Department also reviewed recent literature and studies around vaccine efficacy, including: Griffin JB, Haddix M, Danza P, et al. SARS-CoV-2 Infections and Hospitalizations Among Persons Aged ≥16 Years, by Vaccination Status — Los Angeles County, California, May 1–July 25, 2021. MMWR Morb Mortal Wkly Rep. ePub: 24 August 2021. DOI: http://dx.doi.org/10.15585/mmwr.mm7034e5external icon.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

STANDARDS FOR HOSPITALS AND HEALTH FACILITIES CHAPTER 2 – GENERAL LICENSURE STANDARDS

6 CCR 1011-1 Chapter 2

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Adopted by the Board of Health on _____.

Copies of these regulations may be obtained at cost by contacting:

Division Director
Colorado Department of Public Health and Environment
Health Facilities and Emergency Medical Services Division
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Main switchboard: (303) 692-2800

Pursuant to section 24-4-103(12.5), C.R.S., the Health Facilities and Emergency Medical Services Division of the Colorado Department of Public Health and Environment maintains copies of the incorporated materials for public inspection during regular business hours. The requirements in Part 3.2.3 do not include any amendments, editions, or changes published after November 1, 2019. Interested persons may obtain certified copies of any non-copyrighted material from the Department at cost upon request. Information regarding how incorporated material may be obtained or examined is available by contacting:

Division Director
Colorado Department of Public Health and Environment
Health Facilities and Emergency Medical Services Division
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Main switchboard: (303) 692-2800

Additionally, materials incorporated by reference have been submitted to the state publications depository and distribution center, and are available for interlibrary loans and through the state librarian.

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PART 11. Influenza Immunization of Employees and Direct Contractors

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11.2.3 Facilities and agencies shall ensure that ninety percent (90%) of employees and direct contractors have received the influenza vaccine during a given influenza season. In order to demonstrate that the ninety percent (90%) rate has been meet, facilities and agencies shall:

(A) By May 15th of every year, report to the Department, in the form and manner specified by the Department, the vaccination rate for employees and direct contracts for the most recent influenza season.

(B) Have defined procedures to prevent the spread of influenza from unvaccinated healthcare workers.

(C) Maintain for three (3) years the following documentation that may be examined by the Department in a random audit process:

(1) Proof of immunization, as defined at Part ~~1.46~~1.51 of this Chapter, or

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PART 12. COVID-19 IMMUNIZATION OF EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF

12.1 STATUTORY AUTHORITY AND APPLICABILITY

12.1.1 THE STATUTORY AUTHORITY FOR THE PROMULGATION OF THESE RULES IS SET FORTH IN SECTION 25-1.5-102, 25-1.5-103, AND 25-3-103, C.R.S.

12.1.2 THE REQUIREMENTS OF THIS PART 12 SHALL BE OVERSEEN AND ENFORCED BY THE DEPARTMENT IN A MANNER CONSISTENT WITH PARTS 2.10 AND 2.11 OF THIS CHAPTER 2 (FOR ALL FACILITY AND AGENCY TYPES), 6 CCR 1011-1, CHAPTER 3, PART 2.1.7 (FOR BEHAVIORAL HEALTH ENTITIES), 6 CCR 1011-1, CHAPTER 7, PART 3.14 (FOR ASSISTED LIVING RESIDENCES), AND 6 CCR 1011-1, CHAPTER 26, PART 5.7 (FOR HOME CARE AGENCIES).

12.2 GENERAL PROVISIONS

12.2.1 EACH FACILITY SHALL DEVELOP AND IMPLEMENT A POLICY AND PROCEDURE TO ENSURE 100% OF EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF HAVE OBTAINED FULL COVID-19 VACCINATION STATUS IN ACCORDANCE WITH THE SCHEDULE BELOW.

(A) ALL EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF MUST HAVE RECEIVED THEIR FIRST DOSE OF THE COVID-19 VACCINATION NO LATER THAN SEPTEMBER 30, 2021.

(B) ALL EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF MUST HAVE RECEIVED THEIR SECOND DOSE OF THE COVID-19 VACCINATION (IF APPLICABLE) NO LATER THAN OCTOBER 31, 2021.

(C) ALL EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF MUST OBTAIN A SUBSEQUENT, OR BOOSTER, DOSE OF THE COVID-19 VACCINATION SHOULD ONE BE RECOMMENDED BY THE ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES (ACIP), IN ACCORDANCE WITH THE RECOMMENDED TIMELINES.

(D) AN EMPLOYEE, DIRECT CONTRACTOR, AND SUPPORT STAFF MEMBER WHO WAS DIAGNOSED WITH COVID-19, WHO RECEIVED MONOCLONAL ANTIBODY TREATMENT, OR CONVALESCENT PLASMA TREATMENT SHALL OBTAIN THEIR VACCINATION IN A TIMEFRAME THAT IS IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE CENTERS FOR DISEASE CONTROL (CDC), ACIP, AND THE INDIVIDUAL'S LICENSED INDEPENDENT PRACTITIONER.

(E) ON OR AFTER OCTOBER 31, 2021, EACH FACILITY SHALL ENSURE ALL NEWLY HIRED EMPLOYEES, DIRECT CONTRACTORS, OR SUPPORT STAFF MEMBERS HAVE OBTAINED FULL COVID-19 VACCINATION STATUS, IN ACCORDANCE WITH THIS PART 12.

12.2.2 FOR PURPOSES OF THIS PART 12, AN EMPLOYEE, DIRECT CONTRACTOR, AND SUPPORT STAFF SUBJECT TO THIS PART 12 IS DEFINED AS AN INDIVIDUAL WHO HAS THE POTENTIAL FOR EXPOSURE TO CLIENTS OF THE FACILITY OR AGENCY AND/OR TO INFECTIOUS MATERIALS, INCLUDING BODILY SUBSTANCES, CONTAMINATED MEDICAL SUPPLIES AND EQUIPMENT, CONTAMINATED ENVIRONMENTAL SURFACES, OR CONTAMINATED AIR.

(A) THESE INDIVIDUALS MAY INCLUDE, BUT ARE NOT LIMITED TO: LICENSED INDEPENDENT PRACTITIONERS; STUDENTS AND TRAINEES; INDIVIDUALS WHO DIRECTLY CONTRACT WITH THE FACILITY OR AGENCY TO PROVIDE SERVICES, WHETHER ON A PERMANENT OR TEMPORARY BASIS; VISITING NURSING STAFF; INDIVIDUALS WHO ARE AFFILIATED WITH THE FACILITY OR AGENCY, BUT DO NOT RECEIVE WAGES OR OTHER REMUNERATION FROM THE FACILITY OR AGENCY; AND PERSONS NOT DIRECTLY INVOLVED IN CLIENT CARE BUT ARE POTENTIALLY EXPOSED TO INFECTIOUS AGENTS THAT CAN BE TRANSMITTED TO AND FROM THE INDIVIDUAL PROVIDING SERVICES AND CLIENTS OF THE FACILITY OR AGENCY.

12.2.3 THE POLICY AND PROCEDURE SHALL ADDRESS, AT A MINIMUM, THE FOLLOWING TOPICS:

(A) A LIST OF THE CATEGORIES OR POSITION DESCRIPTIONS OF EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF EXEMPT FROM THE REQUIREMENT AT PART 12.2.1, INCLUDING JUSTIFICATION FOR THAT DECISION.

(B) THE FACILITY'S CRITERIA FOR ACCEPTING OR REJECTING MEDICAL OR RELIGIOUS EXEMPTIONS.

(C) MEASURES TAKEN BY THE FACILITY TO PROTECT CLIENTS AND MEMBERS OF THE PUBLIC FROM EXPOSURE BY UNVACCINATED INDIVIDUALS, WHICH SHALL BE BASED ON STATE AND NATIONAL STANDARDS AND GUIDELINES. THE POLICY SHALL INCLUDE, AT A MINIMUM, HOW THE FACILITY WILL IMPLEMENT TESTING AND MASKING FOR UNVACCINATED INDIVIDUALS.

12.2.4 EACH FACILITY SHALL MAINTAIN THE FOLLOWING DOCUMENTATION THAT MAY BE EXAMINED BY THE DEPARTMENT, AT ANY TIME, FOR PURPOSES OF VERIFYING COMPLIANCE WITH THIS PART 12.

(A) PROOF OF IMMUNIZATION, AS DEFINED AT 6 CCR 1011-1, CHAPTER 2, PART 1.51, OR

(B) A MEDICAL EXEMPTION SIGNED BY A PHYSICIAN, PHYSICIAN ASSISTANT, ADVANCED PRACTICE NURSE, OR CERTIFIED NURSE MIDWIFE LICENSED IN THE STATE OF COLORADO STATING THAT THE COVID-19 VACCINATION FOR THE EMPLOYEE, DIRECT CONTRACTOR, OR SUPPORT STAFF IS MEDICALLY CONTRAINDICATED AS DESCRIBED IN THE PRODUCT LABELING APPROVED OR AUTHORIZED BY THE FDA, OR

(C) DOCUMENTATION OF A RELIGIOUS EXEMPTION, AS DEFINED BY FACILITY POLICY.

12.3 WAIVER REQUESTS

(A) A FACILITY MAY SEEK A WAIVER OF THE 100% VACCINATION REQUIREMENT AT PART 12.2.1 ON THE BASIS THAT ONE OR MORE INDIVIDUALS HAVE CLAIMED A RELIGIOUS EXEMPTION, PURSUANT TO FACILITY POLICY.

(B) ALL WAIVER APPLICATIONS SHALL BE SUBMITTED IN ACCORDANCE WITH THE PROCESS OUTLINED AT 6 CCR 1011-1, CHAPTER 2, PART 5 – WAIVER OF REGULATIONS FOR FACILITIES AND AGENCIES.

12.4 REPORTING REQUIREMENTS

12.4.1 BEGINNING OCTOBER 1, 2021, EACH FACILITY SHALL REPORT ITS COVID-19 VACCINATION RATE TO THE DEPARTMENT ON THE 1ST AND THE 15TH DAY OF THE MONTH.

12.4.2 THIS INFORMATION SHALL BE REPORTED IN THE FORM AND MANNER SPECIFIED BY THE DEPARTMENT.

12.4.3 EACH FACILITY SHALL REPORT THE FOLLOWING INFORMATION TO THE DEPARTMENT:

(A) THE TOTAL NUMBER OF EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF, WHETHER OR NOT THE INDIVIDUAL IS SUBJECT TO THE REQUIREMENTS OF THIS PART 12.

(B) TOTAL NUMBER OF VACCINATED EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF AND THE TOTAL NUMBER OF EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF.

(C) NUMBER OF MEDICAL EXEMPTIONS CLAIMED BY EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF.

(D) NUMBER OF RELIGIOUS EXEMPTIONS CLAIMED BY EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF.

(E) NUMBER OF EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF IDENTIFIED BY THE FACILITY AS EXEMPT FROM THE REQUIREMENTS OF THIS PART 12.

(F) NUMBER OF EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF WHO HAVE LEFT EMPLOYMENT WITH THE FACILITY OR AGENCY DUE TO THE REQUIREMENTS OF THIS PART 12, SINCE THE LAST REPORTING DATE.

12.4.4 INFORMATION REPORTED TO THE DEPARTMENT UNDER THIS PART 12 SHALL BE MADE PUBLICLY AVAILABLE ON THE DEPARTMENT'S WEBSITE.