



State of California—Health and Human Services Agency  
Department of Health Care Services



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## DHCS BH All Provider Call

### Brief Summary – 08/04/21

[Link](#) to weekly meeting notes and meeting link on DHCS webpage

To get on the mailing list for updates, email [DHCSBHLicenCert@dhcs.ca.gov](mailto:DHCSBHLicenCert@dhcs.ca.gov)

**Note: the information shared in this call has been updated to reflect [the Public Health Order issued August 5, 2021](#), which requires vaccination for all health care workers.**

### CDPH Updates – Cassie Dunham, Dr. Jane Siegel

- [New Public Health Order](#) requires health care workers to have the first dose of a one dose regimen or the second dose of a two dose regimen of COVID -19 vaccine by September 30, 2021. Vaccines currently authorized by the FDA or by the WHO may fulfill this requirement. Links to those webpages are: [FDA](#); [WHO](#). Only 2 exemptions will be allowed: declining vaccination based on Religious Beliefs of Qualifying Medical that requires a letter from medical professional. Testing much occur weekly for unvaccinated workers who are exempt twice weekly in acute care and long term care settings and once weekly for such workers in all other health care settings. This applies to all behavioral health (BH) facilities -- outpatient, inpatient, residential BH – except for children’s residential facilities licensed by CDSS.
- Unvaccinated workers are required to follow [CDPH testing guidance](#) – once weekly in BH facilities
- Workers at BH facilities are required to use surgical masks for source control; N-95 for source control is optional. Providers must make surgical masks and N-95s available and provide instruction on wearing N95s, including how to do a seal check.
- Facilities must track vaccination status of workers – how to do it, while protecting confidentiality – is in public health order. The CAIR2 registry may not be accessed for vaccination status of workers or visitors.
- Tracking needs to be done in a way so it is available to CDPH and local jurisdiction upon request.

- Refer to labor contract/work with own program's counsel re: payment/reimbursement for testing.

### **DSS Updates – Vicki Smith**

- For adult and senior care facilities removes 70% threshold; workers not fully vaccinated need weekly PCR or antigen testing.
- PIN now gives the authority to the licensee to require and track testing and proof of vax status.
- Masking remains in place for all, at all times.
- Workers who are incompletely vaccinated or unvaccinated must wear an FDA certified mask. Subject to Cal/OSHA requirements.

### **DMHC Updates – Jessica Petersen**

- [APL 21-020](#): Acknowledges CDPH requirement to comply with federal law – testing covered in or out of network; no cost-sharing or prior authorization required.
- [APL 21-016](#): Explains health plan obligations to comply with federal guidance, including that published on February 26, 2021. This APL explains diagnostic testing coverage requirements. While the federal guidance does not define the terms “diagnostic,” “public health surveillance,” or “employment purposes,” the guidance requires health plans to generally assume that if a person seeks and receives a COVID-19 test from a licensed or authorized provider, “the receipt of the test reflects an ‘individualized clinical assessment.’”

### **DHCS Updates – Dr. Pfeifer**

- DHCS requires behavioral health facilities to follow public health orders.

### **Links to Resources**

**CDC guidance on return to work policies related to positive tests:** link [here](#)

**DHCS guidance on requirements for COVID-19 vax verification, testing and masking for BH workers:** link [here](#)

**DMHC guidance on continued coverage of COVID-19 Diagnostic Testing:** link [here](#) (APL 21-020), [here](#) (APL 21-016), and [here](#) (Main DMHC COVID Response page).

**Cal/OSHA and Statewide Industry Guidance on COVID-19:** link [here](#)

**Guidance on starting a testing site in your community:** link [here](#)

**CDPH guidance on the use of face coverings:** link [here](#)

**CDSS guidance on face covering order in children's residential facilities:** link [here](#)

**CDSS guidance on facility staff testing and masking:** link [here](#)

**CDSS guidance announcing availability of BinaxNOW™ antigen testing program for adult and senior care:** link [here](#)

**Digital Covid vaccine record:** link [here](#)

## **QUESTIONS AND ANSWERS**

### **Employer Issues and Concerns**

***Q: Who is included in the vaccination, testing and masking requirements?***

***A:*** The requirements apply to all health care workers, other than those working in CDSS-licensed children's residential facilities.

"Worker" refers to all paid and unpaid persons serving in health care, other health care or congregate settings who have the potential for direct or indirect exposure to patients/clients/residents or SARS-CoV-2 airborne aerosols. Workers include, but are not limited to, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, students and trainees, contractual staff not employed by the health care facility, and persons not directly involved in patient care, but who could be exposed to infectious agents that can be transmitted in the health care setting (e.g., clerical, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing, and volunteer personnel). This includes:

The public health order includes, but is not limited to, the following:

- Workers and counselors with any client contact, including home visits and visits in the field
- Administrative staff working in the same office as a health care worker with patient contact
- County-operated and county-contracted behavioral health facilities

The public health order does not apply to workers who are 100% telework, or those who work in a building where no care is provided to patients or to which patients do not have any access for any purpose.

Contractors who perform essential janitorial functions outside of client hours may proceed without vaccine verification if they maintain social distancing, and no clients or staff who work with clients are present at the time of their service. If clients are present, or if staff who work with clients are present at the time of service this activity would

require vaccination verification. All individuals should be masked at all times while inside the facilities regardless of role or vaccination status.

***Q: Employers are concerned that they will get in trouble for implementing and especially enforcing testing and vaccination requirements. Is vaccination a condition of employment? If it is, does it mean that employees can ultimately be terminated for cause if they don't comply?***

**A:** Facilities are required to follow the public health order and should refer to their own individual employer policies regarding management of employees who do not comply.

***Q: Does CDPH have suggestions for which IT platforms can track vaccinations and testing results?***

**A:** While CDPH, DSS and DSS do not endorse any of these platforms, the following are a few of the platforms we have heard of providers using: AccuShield, Color, Primary, Navica App (BinaxNOW™ only)

***Q: Do we report all results to public health, or only if positive cases? How often and in what format?***

**A:** Facilities must track compliance with the public health order and be prepared to demonstrate compliance.

***Q: Do agencies put staff on leave if staff are not complying with vaccination and/or testing requirements? Do they not qualify for COVID pay?***

**A:** Facilities are required to follow public health orders; DHCS defers to the provider and their employer policies for noncompliant staff.

***Q: For those who refuse to get vaccinated (for whatever reason) and therefore have to get tested weekly, does the employer have to pay them for the time to go get tested? And pay them if quarantined pending results?***

**A:** Workers cannot refuse to get vaccinated and continue to work at the health care setting, unless they have obtained an exemption as described in the public health order. DHCS is still researching the question about employer obligation to pay for time to test, if testing is not offered on-site.

***Q: Will all insurance providers pay for weekly covid testing regardless of location to take the COVID testing?***

**A:** Yes, see guidance [APL 21-020](#) and [APL 21-016](#) released by DMHC, explaining that health plans must cover all COVID-19 diagnostic testing “when the purpose of the testing is for individualized diagnosis or treatment of COVID-19,” and addressing the federal guidance’s exclusion of public health surveillance and employment-purpose testing.

***Q: Is it expected that an employer will bear responsibility for reimbursing an employee for any costs incurred in complying with the state vaccination or testing mandate (ex. Time, mileage, co pays, lost wages)?***

**A:** No financial support is available. Testing costs are coverable on employee insurance. Facilities may obtain information about free antigen testing (and how to obtain follow-up PCR testing) on the [CDPH testing website](#). Free testing may also be available through the local public health department for uninsured employees.

***Q: Do staff have to get tested during non-work time or do they get time off to get tested? Is the provider required to pay for time and mileage for employees to go get tested weekly?***

**A:** Please see the guidance released by the Department of Industrial Relations [COVID19 resources FAQs Testing Vaccine](#)

***Q: We are looking for the regulation that was referenced in the meeting last week that indicated that Insurance companies could not require any co-pay or co-insurance for the COVID testing. I can't seem to find that regulation and in fact am seeing just the opposite for this type of testing***

**A:** The DMHC's jurisdiction is over licensed health plans under the Knox-Keene Act (HSC Sec. 1340 et seq).

See the reference from Blue Shield below:

The federal government issued [new guidance](#) on February 26, 2021 clarifying health plans must cover COVID-19 diagnostic testing for all health plan enrollees by any provider with no cost-sharing. The new guidance made changes to the requirements on health plans to cover COVID-19 tests. The DMHC also created a [COVID-19 Testing Fact Sheet](#) and issued an [All-Plan Letter](#) (APL) to DMHC-regulated health plans to help explain this new guidance. In particular, the linked APL contains information on diagnostic testing, versus testing for purposes other than individualized diagnosis or treatment of COVID-19.

If a health plan enrollee receives a bill related to the coverage of a COVID-19 test, they should first file a grievance with their health plan and include a copy of the bill. If the enrollee does not agree with their health plan's response or if the plan takes more than 30 days to fix the problem, they should file a complaint with the DMHC Help Center at [www.HealthHelp.ca.gov](http://www.HealthHelp.ca.gov) or by calling 1-888-466-2219.

### **Masking Requirements**

***Q: If vaccinated staff request an N95 for source control, is employer required to provide it? Our assumption is that would not be covered through COVID pay guidelines?***

**A:** Employers are required to provide N-95 respirators on staff request and to provide instruction on use including seal checks. N-95 respirators are optional in BH facilities. Facilities shall also provide all unvaccinated or incompletely vaccinated workers with FDA-cleared surgical masks. Please keep in mind that when respirators are not required by Title 8 or specifically requested by staff, surgical masks are required for unvaccinated staff and are recommended for use by all staff regardless of vaccination status when indoors and working with another person

**Q: Can we clarify that the mask mandate for all is still in place?**

**A:** All BH facilities must implement universal masking indoors, regardless of vaccination status, per [CDPH guidance for face coverings \(ca.gov\)](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Imz/2021/0001.aspx).

**Q: Licensed DHCS SUD programs that are connected to a continuum of care including non-licensed residential housing such as sober living, recovery housing, etc. that are county and/or state contracted for housing- do all these same public health orders apply for employees/house managers of those residential sites (via their governmental connection to DHCS, etc.)?**

**A:** The public health order does not apply to residences (such as sober living, recovery housing) that are not health care settings described in the public health order.

**Q: Is the masking requirement for residential for children is indoors only?**

**A:** Based on the Public Health Order, masking in children's residential programs (CRP) facilities is encouraged but not required for fully vaccinated staff. This applies for both indoor and outdoor use. Employers can still require that staff wear masks.

### **Vaccination Questions, Tracking and Verification**

**Q: Do clients need to be vaccinated or tested?**

**A:** The Public Health Order only applies to workers, not clients. Clients should be encouraged to get vaccinated.

**Q: What if someone loses the vaccination card where can they get a copy?**

**A:** Electronic vaccination cards can be located at <https://myvaccinerecord.cdph.ca.gov/>

**Q: What percentage of employees need to be fully vaccinated so that we don't have to test fully vaccinated employees?**

**A:** The public health order does not require routine testing for fully vaccinated workers in BH facilities.

**Q: At some point will DSS approve/mandate children's residential vaccinations? Minors in care need court order and without ACL our foster youth will not ever be vaccinated as we have no parental rights.**

**A:** CDSS does not have the authority to require clients to be vaccinated for the Delta variant.

**Q: In light of the Delta variant can residents of a SUD be required to be vaccinated, and if they refuse, can they be discharged from the program?**

**A:** The Public Health Order does not apply to clients. Neither CDPH nor DHCS supports discharging clients from a program based on vaccination status. However, facilities may require clients to wear masks when in indoor settings, distance from others and undergo weekly testing.

### **Testing Questions, Tracking and Verification**

**Q: Is there a recommended system for tracking staff weekly testing results and what will be expected to report? What do you consider verification of testing? Must we provide laboratory test results or will a log of testing suffice?**

**A:** DHCS defers to the provider as there are no specific requirements for how the tracking is maintained. A log of testing results must be maintained by the facility,

**Q: Can you clarify that agencies need to maintain some type of record of the test results? If so, does it need to be a copy of the actual results or some type of record that the results were verified?**

**A:** All DHCS licensed and certified facilities are expected to track testing results and be prepared to report to the local public health department if asked. However, there are no specific requirements for how the tracking is maintained.

**Q: We only need to test those who are not vaccinated correct?**

**A:** Yes, weekly testing is only required for BH workers who are not vaccinated, due to religious or medical exemptions.

**Q: Is a rapid test appropriate? Can providers allow employees to do the home tests?**

**A:** Any form of antigen or PCR (or other molecular or NAAT) that is authorized for use) test is permitted. If the facility is a licensed health facility then it cannot use over the counter tests and should use CLIA waived tests operating under a CLIA license (either the state's or the facility's).

**Q: I'm hearing that the new PIN will either "recommend" or "require" testing for children's residential programs. Can you clarify which it will be?**

**A:** For Children's Residential licensed by DSS, universal vaccination and screening of unvaccinated workers are recommended as DSS-licensed children's residential facilities were not included in the July 26, 2021 Public Health Order.

**Q: What about testing for contractors? Are the agencies obligated to pay for them?**

**A:** Contractors would fall under the definition of "worker" in [BHIN 21-043](#). Testing costs are coverable on employee insurance. Facilities may obtain information about free antigen testing (and how to obtain follow-up PCR testing) on the [CDPH testing website](#). Free testing may also be available through the local public health department for uninsured employees. Check to see if the contractors' employers are providing testing since you may be able to obtain those results.

**Q: How is the employer responsible for paying for testing when it is the State requiring this not private employers?**

**A:** Testing costs are coverable on employee insurance. Facilities may obtain information about free antigen testing (and how to obtain follow-up PCR testing) on the [CDPH testing website](#). Free testing may also be available through the local public health department for uninsured employees.

**Q: Is there a preference on which test to use (PCR vs Antigen) and the frequency of testing?**

**A:** There is not an official recommendation or requirement on the specific type of test, please see the guidance in [BHIN 21-043](#) for testing recommendations.

**Q: Are pregnant and/or nursing employees exempt from this mandate?**

**A:** DHCS is still researching the answer to this question; the language of the public health order at this time does not explicitly exempt pregnant and/or nursing employees, but they may discuss indications for a medical exemption with their provider. In general, the CDC encourages pregnant and/or nursing people to get vaccinated, as COVID-19 infection significantly increases the risk of negative outcomes in pregnancy, including pre-term birth.

**Q: How can I learn about BinaxNOW™ antigen testing?**

**A:** [PIN 21-30-ASC](#) - Announcing The Availability Of The California Department Of Public Health's BinaxNOW™ Antigen Testing Program For Coronavirus Disease 2019 (COVID-19) For Adult And Senior Care (ASC) Facilities. Facilities may also obtain more information on the [CDPH testing website](#).

**Q: Is there guidance for residential facilities and the allowance of visitors?**

**A:** Visiting policies are at the discretion of the provider. See recent guidance from CDPH: [Visitors in Acute Health Care and Long Term Care Settings](#) and CDSS: [PIN 21-17.2-ASC](#) for other recommendations.

**Q: When are COVID-19 tests not covered?**

**A:** COVID-19 tests are not covered by insurance in these cases:

- When the test is not ordered or provided by a licensed or authorized healthcare provider (e.g., home test kit purchased online or from a grocery store or a pharmacy).
- When the test is an antibody test, with some exceptions.
- Screening as a prerequisite for entry into the US from international travel.
- When the purpose of the testing is NOT for individualized diagnosis or treatment of COVID-19 (see DMHC [APL 21-016](#)).

**Q: Please clarify the verification of test results. Can it just be an attestation by an agency administrator who viewed the results or does it need to be a copy of the actual results maintained?**

**A:** From [AFL-21-29](#):

**Verifying Vaccination Status and Options for Providing Proof of Vaccination:**

Per the [CDPH Guidance for Vaccine Records Guidelines & Standards](#), only the following modes may be used as proof of vaccination:



- COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services Centers for Disease Control & Prevention or WHO Yellow Card<sup>1</sup>) which includes name of person vaccinated, type of vaccine provided, and date last dose administered); OR
- A photo of a Vaccination Record Card as a separate document; OR
- A photo of the client's Vaccination Record Card stored on a phone or electronic device; OR
- Documentation of COVID-19 vaccination from a healthcare provider; OR
- Digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader client name, date of birth, vaccine dates and vaccine type; OR
- Documentation of vaccination from other contracted employers who follow these vaccination guidelines and standards.

HCP may access their digital vaccination record by using the [Digital COVID-19 Vaccine Record](#) website. According to state law, facilities may not access the CAIR2 registry to verify vaccination status of employees or visitors.

***Q: If we use the BinaxNOW™ tests, how do we show proof of the test?***

***A:*** There are no specific requirements for how to show proof of the test.

***Q: If a testing provider attempts to charge staff for testing, what regulation can we quote to them that this is not allowed?***

***A:*** There are no existing regulation requiring a testing provider to provide free testing. Per the guidance from DMHC's [APL 21-020](#) and [APL 21-016](#), testing costs are coverable on employee insurance. Facilities may obtain information about free antigen testing (and how to obtain follow-up PCR testing) on the [CDPH testing website](#). Free testing may also be available through the local public health department for uninsured employees.

***Q: As for the free test kits that are available, are they only available to behavioral health facilities or to any employer even if not a SUD or healthcare facility?***

Facilities may obtain information about free antigen testing (and how to obtain follow-up PCR testing) on the [CDPH testing website](#).

***Q: For larger multi-county organizations who have taken verifiable steps towards complying, will there be a chance to obtain an extension on the compliance date if a difficulty arises?***

***A:*** Please reach out to your assigned licensing analyst for questions about a particular facility. However, DHCS is not authorized to provide extensions.

***Q: If someone gets the PCR test, and are asymptomatic, do they have to wait until they receive negative results before returning to work each week?***

**A:** Workers are not required to await the results of the test if they get tested every 7 days. CDPH is not requiring employees to avoid the workplace awaiting testing results. The current guidance allows for PCR or antigen tests.

**Q: *Is the PCR test accurate during flu season?***

**A:** Yes. During flu season, it is preferred to test those who are symptomatic for both influenza and SARS-CoV-2. Influenza and other respiratory viruses do not affect the accuracy of tests used to detect SARS-CoV-2.

**Q: *Under which circumstances should providers test clients regularly?***

**A:** If clients are likely to have been exposed to SARS-CoV-2, they should be tested.

**Q: *If an unvaccinated worker only works once per month or on weekends, do they still need to get tested once a week?***

**A:** Testing is not required during periods of 100% telework. A negative test within 7 days is required for workers who have intermittent work schedules.

From [AFL-21-29](#):

- HCP who are unvaccinated or incompletely vaccinated and work less often than weekly must undergo SARS-CoV-2 diagnostic screening testing, and the testing should occur within 48 hours before **each shift** and the result should be known before the work shift begins.

**Q: *How does CDPH define direct and indirect contact?***

**A: Direct contact:** infectious agents are transferred from one person to another without an intermediate object or person.

**Indirect contact:** infectious agents are transferred from one person to another via a contaminated intermediate object or person.

**Q: *How long does CDPH require a worker to stay in quarantine if they have a positive test?***

**A:** See [CDC guidance](#) and [AFL-21-08.3](#) on return to work policies related to positive tests.