



# Public Health Law

Office for State, Tribal, Local and Territorial Support  
Centers for Disease Control and Prevention

## Menu of State Healthcare Facility Pertussis Vaccination Laws

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This menu is one of a series of menus assessing vaccination requirements for patients and healthcare workers in healthcare facilities. To reduce the risk of disease transmission and outbreaks, healthcare facilities across the country are increasingly requiring healthcare workers to be vaccinated for certain vaccine-preventable diseases.<sup>1</sup> In some instances, facilities are establishing these requirements under mandates set forth by state statutes or regulations. Depending on the vaccine, the legal requirements might apply to either patients, healthcare workers, or both, and can include the following types of provisions:

- **Assessment Requirements**  
The healthcare facility must assess a healthcare worker or patient's vaccination status.<sup>2</sup>
- **Administrative Requirements for Offering Vaccination**  
The healthcare facility must offer a vaccination to a healthcare worker or patient.<sup>3</sup>
- **Administrative Requirements for Ensuring Vaccination**  
The healthcare facility must require a healthcare worker or patient to demonstrate proof of vaccination or immunity against a specific vaccine preventable disease.<sup>4</sup>

Pertussis, commonly known as whooping cough, is a respiratory illness caused by *Bordetella pertussis* bacteria.<sup>5</sup> Pertussis is a contagious disease most often spread through coughing and sneezing.<sup>6</sup> Newborn infants are at the greatest risk for serious disease and death from pertussis infection.<sup>7</sup> In healthcare settings, the frequency and closeness of patient contact potentially puts healthcare workers at risk for both acquiring pertussis and transmitting it,<sup>8</sup> and costs associated with pertussis in healthcare settings can be high.<sup>9</sup> Encouraging or requiring the tetanus-diphtheria-acellular pertussis (Tdap) vaccine is one method of preventing pertussis in healthcare workers.

Three states<sup>10</sup> have legal provisions specific to healthcare worker pertussis vaccination, and four states<sup>11</sup> have provisions pertaining to pertussis vaccination in patients. This menu assesses and provides examples of state laws that expressly establish pertussis vaccination standards for hospitals, long-term care facilities, and ambulatory care facilities.<sup>12</sup>



CDC recommends that both children and adults receive pertussis vaccination. To learn more, visit CDC's [Pertussis: Summary of Vaccine Recommendations](#) webpage for information.

## Examples by Facility Type

Five states have laws specific to pertussis vaccination in hospitals.<sup>13</sup> Four states have laws referring pertussis vaccination in long-term care facilities.<sup>14</sup> Two states have laws regulating pertussis vaccination in ambulatory care facilities.<sup>15</sup>

### Hospital Type

Hospitals are healthcare facilities that provide inpatient, diagnostic, and therapeutic services for both surgical and nonsurgical conditions, 24 hours a day.<sup>16</sup> Five states have pertussis vaccination provisions that expressly reference hospitals or apply to various healthcare facilities that include hospitals by definition.<sup>17</sup>

- **Nebraska** law provides that each general acute hospital both offer and “[r]equire all hospital employees to be vaccinated against . . . pertussis.”<sup>18</sup>
- In **Louisiana**, “each licensed hospital in this state shall, prior to discharge, offer the pertussis vaccine to each parent of a newborn infant.”<sup>19</sup>

### Long-Term Care Facility Type

Long-term care facilities “provide a variety of services, both medical and personal care, to people who are unable to manage independently in the community,” including facilities such as nursing homes and skilled nursing facilities.<sup>20</sup> Four states have pertussis vaccination provisions that expressly reference long-term care facilities or apply to healthcare facilities that are considered long-term care facilities.<sup>21</sup>

- In **California**, healthcare facilities, such as “[l]ong term health care facilities,”<sup>22</sup> as well as “[s]killed nursing facilities,”<sup>23</sup> must offer pertussis vaccination to healthcare workers.<sup>24</sup>
- Under **Indiana** law, “[h]ealth care facilities for children,” defined as “those facilities that provide nursing care, habilitative and rehabilitative procedures . . . for children who, because of handicaps, require such care,”<sup>25</sup> must have written evidence of pertussis vaccination for patients upon admission.<sup>26</sup>

### Ambulatory Care Facility Type

Ambulatory care facilities are healthcare facilities that provide outpatient medical services.<sup>27</sup> Examples of ambulatory care facilities can include birth centers, dialysis centers, and surgical centers.<sup>28</sup> Two states have pertussis vaccination provisions that expressly reference ambulatory care facilities or apply to healthcare facilities that are considered ambulatory care facilities.<sup>29</sup>

- In **California**, healthcare facilities, such as “[c]linics, medical offices, and other outpatient medical facilities,”<sup>30</sup> must offer pertussis vaccination to healthcare workers.<sup>31</sup>
- In **Rhode Island**, healthcare workers must demonstrate pre-employment pertussis vaccination before beginning work at healthcare facilities, the definition of which includes facilities such as “kidney disease treatment centers . . . freestanding emergency care facilities, and facilities providing surgical treatment to patients not requiring hospitalization (surgi-centers),” as well as “organized ambulatory care facilities” such as “treatment centers, diagnostic centers, outpatient clinics, infirmaries and health centers.”<sup>32</sup>

## Examples by Type of Individual

One state has a pertussis vaccination law applicable to all groups of patients.<sup>33</sup> One state<sup>34</sup> has a pertussis vaccination law specific to children, and two states<sup>35</sup> have laws specific to parents of newborns. In addition, three states<sup>36</sup> have healthcare vaccination laws that apply to all healthcare workers.

### All Patients

- In **Nebraska**, “each general acute hospital” shall “offer onsite vaccination for . . . pertussis to all inpatients prior to discharge.”<sup>37</sup>

### Children

- **Indiana’s** “health care facilities for children,” defined as “facilities that provide nursing care, habilitative and rehabilitative procedures . . . for children who, because of handicaps, require such care,”<sup>38</sup> are required to have written evidence that “indicate(s) completion of an immunization series for . . . whooping cough” for “each resident.”<sup>39</sup>

### Parents of Newborns

- **Louisiana’s** statute provides that “each licensed hospital in this state shall, prior to discharge, offer the pertussis vaccine to each parent of a newborn infant.”<sup>40</sup>
- In **New York**, a “parent, person in parental relation or other person who is reasonably anticipated to be a caregiver of a newborn” is offered vaccination against pertussis.<sup>41</sup>

### All Healthcare Workers

- “[A]ll hospital employees” in **Nebraska** must be offered vaccination against pertussis.<sup>42</sup>
- In **Rhode Island** a dose of Tdap vaccine is “required for all healthcare workers who have not previously received a dose of Tdap vaccine.”<sup>43</sup>

CDC recommends pertussis vaccination for all healthcare workers who have direct patient contact. See CDC’s [Pertussis: Summary of Vaccine Recommendations](#) web page for information.

## Examples by Requirement Type

Three states<sup>44</sup> have assessment provisions for patients, three states<sup>45</sup> have an administrative offer provision for patients, and one state<sup>46</sup> has an administrative ensure provision for patients. Provisions that apply to healthcare workers include assessment provisions in three states,<sup>47</sup> as well as administrative offer provisions in two states<sup>48</sup> and administrative ensure provisions in two states.<sup>49</sup>

### Assessment Requirements

- In **Indiana**, “written evidence” of a patient’s “completion of an immunization series for . . . whooping cough” is required before admission to a healthcare facility for children.<sup>50</sup>

### Administrative Requirements for Offering Vaccination

- **New York** law requires hospitals to “offer to every parent, person in parental relation or other person who is reasonably anticipated to be a caregiver of a newborn being treated in such hospital vaccination against Bordetella pertussis (whooping cough).”<sup>51</sup>

- **California** hospitals “shall make available” the Tdap vaccination to all healthcare workers with potential occupational exposure.<sup>52</sup>

### Administrative Requirements for Ensuring Vaccination

- **Nebraska’s** general acute care hospitals shall “[r]equire all hospital employees to be vaccinated against . . . pertussis, except that an employee may elect not to be vaccinated.”<sup>53</sup>
- In **Rhode Island**, one dose of a Tdap vaccination “is required for all healthcare workers who have not previously received a dose of Tdap vaccine.”<sup>54</sup>

### Examples by Exemption Type

States with pertussis vaccination requirements often permit exemptions from these requirements in certain circumstances, such as when vaccination is medically contraindicated or violates a person’s philosophical beliefs. In four states,<sup>55</sup> laws allow for patients to be exempted from pertussis vaccination for medical reasons, although note that even where not explicitly exempted by law, it is likely that patients with a medically contraindicated condition are not required to be vaccinated. In two states,<sup>56</sup> laws allow for a philosophical exemption. In terms of pertussis vaccinations for healthcare workers, three states<sup>57</sup> allow for medical exemptions, and two states<sup>58</sup> allow for philosophical exemptions.<sup>59</sup> There were no specified religious exemptions to either the patient or healthcare worker vaccination laws.

### Medical<sup>60</sup>

- In **Rhode Island**, “[a] health care worker shall be exempt from . . . immunization requirements . . . provided that a physician, physician assistant, or certified registered nurse practitioner signs a medical exemption.”<sup>61</sup>
- **Nebraska’s** pertussis vaccination provision “shall not apply in individual cases when contraindicated . . .”<sup>62</sup>

### Philosophical<sup>63</sup>

- A **Nebraska** law requires all hospital employees to be vaccinated against pertussis, however “an employee may elect to not be vaccinated.”<sup>64</sup>
- In **Louisiana**, if the parent of a newborn “declines the offer of the vaccine . . . , then the hospital shall provide to the person educational information” on “pertussis disease and the availability of a vaccine to protect against contracting the disease.”<sup>65</sup>

### Acknowledgments and Disclaimers

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questions regarding the application of law to a specific circumstance. The findings and conclusions in this summary are those of the authors and do not necessarily represent the official views of CDC.

*This menu includes states laws collected from WestlawNext during June 8–August 7, 2015.*

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**Author's note:**

*Updates include the change of **Ensure Requirement** definition from “requiring a healthcare facility to ensure that a healthcare worker or patient has been vaccinated, unless vaccination is specifically exempted or declined” to “the healthcare facility must require a healthcare worker or patient to demonstrate proof of vaccination or immunity against a specific vaccine preventable disease”.*

## Appendix 1

Hospital Pertussis Vaccination Laws														
State	Citation	Facility Type			Individual Type			Requirement Type			Exemptions			
		All Hospitals <sup>66</sup>	General Acute Care <sup>67</sup>	Neonatal, Nursery, Obstetrics	All Health-care Workers (HCW)	All Patients	Patient: Parent of Newborn	Assessment	Administrative Offer	Administrative Ensure	None Specified	Medical <sup>68</sup>	Religious	Philosophical <sup>69</sup>
CA	Cal. Code Regs. tit. 8, § 5199, Appendix C1, Appendix E*	X			X			X	X			X		X
LA	La. Stat. Ann. § 40:2022	X <sup>70</sup>					X	X	X			X		X
NE	Neb. Rev. Stat. §§ 71-469, 71-413		X			X			X			X		
	Neb. Rev. Stat. § 71-467		X		X			X	X	X		X		X
NY	N.Y. Public Health Law § 2805-h			X <sup>71</sup>			X	X	X			X		X
RI	R.I. Code. R. §§ 31-1-22:1.0, 31-1-22:2.0, 31-1-22:3.0, 22:2.0, *31-1-22:5.0	X			X			X		X		X		

\*Provision includes definition.



## Appendix 2

Long-Term Care (LTC) Facility Pertussis Vaccination Laws															
State	Citation	Facility Type				Individual Type			Requirement Type			Exemptions			
		Health - Care Facility for Children	All LTC	Nursing Facility	Inter-mediate Care	All HCW	All Patients	Patient: Child	Assessment	Administrative Offer	Administrative Ensure	None Specified	Medical <sup>72</sup>	Religious	Philosophical <sup>73</sup>
CA	Cal. Code Regs. tit. 8, § 5199, Appendix C1, Appendix E		X	X		X					X			X	X
IN	410 Ind. Code § 16.2-6-2 *410 Ind. Admin. Code 16.2-1.1-28	X						X	X		X		X <sup>74</sup>		
NE	Neb. Rev. Stat. §§ 71-469, 71-413			X	X		X			X			X		
RI	R.I. Code. R. §§ 31-1-22:3.0, 31-1-22:5.0, 31-1-22:2.0, *31-4-8:14.0			X		X			X		X		X		

\*Provision includes definition.

**Appendix 3**

<b>Ambulatory Care Facility Pertussis Vaccination Laws</b>																		
<b>State</b>	<b>Citation</b>	<b>Facility Type</b>									<b>Individual Type</b>	<b>Requirement Type</b>			<b>Exemptions</b>			
		Outpatient Medical Facility	All Ambulatory Care Facilities	Treatment Centers	Diagnostic Centers	Outpatient Clinics	Kidney Disease Center	Health Centers	Free Standing Emergency Care Facilities	Surgical Centers	All HCW	Assessment	Administrative Offer	Administrative Ensure	None Specified	Medical <sup>75</sup>	Religious	Philosophical <sup>76</sup>
<b>CA</b>	Cal. Code Regs. tit. 8, § 5199, Appendix C1, Appendix E	X				X					X		X			X		X
<b>RI</b>	R.I. Code. R. §§ 31-1-22:3.0, 31-1-22:1.0, 31-1-22:2.0, *31-1-22:5.0		X	X	X	X	X	X	X	X	X	X		X		X		

\*Provision includes definition.

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- <sup>1</sup> Alexandra Stewart et al. *Mandatory Vaccination of Health-Care Personnel: Good Policy, Law, and Outcomes*, 53 *Jurimetrics J.* 341 (Apr. 2013).
- <sup>2</sup> MC Lindley, GA Horlick, AM Shefer, FE Shaw & M Gorji. *Assessing State Immunization Requirements for Healthcare Workers and Patients*. *Am. j. of preventive med.*, 32(6), 459–65, 460 (2007).
- <sup>3</sup> *Id.*
- <sup>4</sup> *Id.*
- <sup>5</sup> Centers for Disease Control and Prevention, [Pertussis \(Whooping Cough\)—Causes and Transmission](#), last visited Feb. 16, 2016.
- <sup>6</sup> *Id.*
- <sup>7</sup> *Immunization of Health-Care Personnel: Recommendations of the Advisory Committee on Immunization Practices (ACIP)*, 60 *MMWR* 7, 20 (Nov. 25, 2011); Centers for Disease Control and Prevention, [Manual for the Surveillance of Vaccine-Preventable Diseases](#) ch. 10 (2015); see also Tami H. Skoff et al., *Sources of Infant Pertussis Infection in the United States*, 136 *Pediatrics* 635, 636 (2015).
- <sup>8</sup> *Immunization of Health-Care Personnel: Recommendations of the Advisory Committee on Immunization Practices (ACIP)*, *supra* note 7; Russi, *supra* note 5, at 1113; Helen C. Maltezou et al., *Nosocomial Pertussis in Neonatal Units*, 84 *J. Hosp. Infect.* 4, 243 (2013).
- <sup>9</sup> See e.g., Seema Yasmin et al., *Healthcare-Associated Pertussis Outbreak in Arizona: Challenges and Economic Impact*, 2011, 3 *J. Pediatric Infectious Diseases* 1, 81 (2013); Angela Calugar et al., *Nosocomial Pertussis: Cost of an Outbreak and Benefits of Vaccinating Health Care Workers*, 42 *Clinical Infectious Diseases* 7, 981–88 (2006).
- <sup>10</sup> California, Nebraska, and Rhode Island. See appendices for citations.
- <sup>11</sup> Indiana, Louisiana, Nebraska, and New York. See appendices for citations.
- <sup>12</sup> CDC’s Public Health Law Program conducted a search for state statutes and regulations that establish express pertussis vaccination requirements for healthcare workers and patients using WestlawNext, a legal research database. Searches were conducted in all states and the District of Columbia, during June 8–August 7, 2015. This assessment did not capture state requirements that incorporate CDC vaccination recommendations by reference. Laws regarding childhood vaccinations, school vaccinations, immunization registries, post-exposure vaccinations, and individual healthcare provider requirements to vaccinate patients were not within the scope of this assessment.
- <sup>13</sup> California, Louisiana, Nebraska, New York, and Rhode Island. See appendices for citations.
- <sup>14</sup> California, Indiana, Nebraska, and Rhode Island. See appendices for citations.
- <sup>15</sup> California and Rhode Island. See appendices for citations.
- <sup>16</sup> See e.g. La. Stat. Ann. § 40:2022; Neb. Rev. Stat. Ann. § 71-413
- <sup>17</sup> California, Louisiana, Nebraska, New York, and Rhode Island. See appendices for citations.
- <sup>18</sup> Neb. Rev. Stat. § 71-467(1)(c).
- <sup>19</sup> La. Stat. Ann. § 40:2022(B)(1).
- <sup>20</sup> Neb. Rev. Stat. § 71-413; R.I. Code. R. § 31-1-22:2.0; Centers for Disease Control and Prevention, [Nursing Homes and Assisted Living \(Long-term Care Facilities \[LTCFs\]\)](#), last visited Feb. 16, 2016. PHLP did not consider the following facilities to be long-term care facilities, regardless of the level of nursing care offered: assisted living facilities, substance abuse treatment facilities, rehabilitation facilities, adult day cares, hospice care facilities, home health agencies, health facilities for the developmentally disabled, rest homes, and group homes.
- <sup>21</sup> California, Indiana, Nebraska, and Rhode Island. See appendices for citations.
- <sup>22</sup> Cal. Code Regs. tit. 8, § 5199(a)(1)(A)6.
- <sup>23</sup> *Id.* § 5199(a)(1)(A)2.
- <sup>24</sup> Cal. Code Regs. tit. 8, § 5199 & Appendix E.
- <sup>25</sup> Ind. Code 16.2-1.1-28.
- <sup>26</sup> *Id.* § 16.2-6-2(b).
- <sup>27</sup> Centers for Disease Control and Prevention, [Healthcare Associated Infections \(HAIs\)](#).
- <sup>28</sup> R.I. Code. R. § 31-1-22:2.0
- <sup>29</sup> California and Rhode Island. See appendices for citations.
- <sup>30</sup> Cal. Code Regs. tit. 8, § 5199(a)(1)(A)3.

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<sup>31</sup> *Id.* § 5199 & Appendix E.

<sup>32</sup> R.I. Code. R. §§ 31-1-22:2.1(a)-(b), 31-1-22:3.0, 31-1-22:1.0.

<sup>33</sup> Nebraska. See Appendix 1 for citation.

<sup>34</sup> Indiana. See Appendix 2 for citation.

<sup>35</sup> Louisiana and New York. See Appendix 1 for citations.

<sup>36</sup> California, Nebraska, Rhode Island. See appendices for citations.

<sup>37</sup> Neb. Rev. Stat. § 71-469.

<sup>38</sup> 410 Ind. Admin. Code 16.2-1.1-28.

<sup>39</sup> Ind. Code §§ 16.2-6-2(b), 16.2-1.1-28.

<sup>40</sup> LA. Rev. Stat. Ann. § 40:2022(B)(1).

<sup>41</sup> N.Y. Pub. Health Law § 2805-h(3).

<sup>42</sup> Neb. Rev. Stat. Ann. § 71-467(1)(b)

<sup>43</sup> R.I. Code R. § 31-1-22:3.5.3.(a)

<sup>44</sup> Indiana, Louisiana and New York. See appendices for citations.

<sup>45</sup> Louisiana, Nebraska and New York. See appendices for citations.

<sup>46</sup> Indiana. See Appendix 2 for citation.

<sup>47</sup> California, Nebraska and Rhode Island. See appendices for citations.

<sup>48</sup> California and Nebraska. See appendices for citations.

<sup>49</sup> Nebraska and Rhode Island. See appendices for citations.

<sup>50</sup> Ind. Code §§ 16.2-6-2(b), 16.2-1.1-28.

<sup>51</sup> N.Y. Pub. Health Law § 2805-h(3)(a)(ii).

<sup>52</sup> Cal. Code Regs. tit. 8, § 5199 & Appendix E.

<sup>53</sup> Neb. Rev. Stat. Ann. § 71-467(1)(c).

<sup>54</sup> R.I. Code. R. §§ 31-1-22:3.0, 31-1-22:1.0, 31-1-22:2.0

<sup>55</sup> Indiana, Louisiana, Nebraska, New York. See appendices for citations. Even where not explicitly exempted by law, it is likely that patients with a medically contraindicated condition are not required to be vaccinated.

<sup>56</sup> Louisiana and New York. See appendices for citations.

<sup>57</sup> California, Nebraska, and Rhode Island. See appendices for citations.

<sup>58</sup> Nebraska and California. See Appendix 1 for citation.

<sup>59</sup> Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization for non-medical reasons.

<sup>60</sup> Please note that even where not explicitly exempted by law it is likely that patients with a medically contraindicated condition are not required to be vaccinated.

<sup>61</sup> R.I. Code. R. § 31-1-22:5.1.

<sup>62</sup> Neb. Rev. Stat. Ann. § 71-467(3)

<sup>63</sup> Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization for non-medical reasons.

<sup>64</sup> Neb. Rev. Stat. § 71-467(1)(c).

<sup>65</sup> LA. Rev. Stat. Ann. § 40:2022(B)(3)(a).

<sup>66</sup> The legal provisions in the “all hospitals” category include laws which reference hospitals generally. Therefore, in some states the “all hospitals” provisions may also be applicable to specialty and general acute care hospitals, but have been coded only as “all hospitals.” *See, e.g.*, Utah Admin Code R386-705, which establishes healthcare worker vaccination assessment requirements, and Utah Code Ann. 1953 § 26-21-2, which includes definitions of both general acute care and specialty hospitals. Citations defining “hospital” in state law are provided in the appendices for reference.

<sup>67</sup> The provisions in this category specifically reference “general acute care hospitals” thus these provisions may not apply to other types of specialty hospitals. States that define hospitals as providing acute care or treating acute illness did not meet the threshold of a “general acute care hospital.” *See, e.g.*, 22 Me. Rev. Stat, Ann. § 1843(4); S.C. Code Ann. Regs. 61-16 § 101(E); Tenn. Comp. R. & Regs. 1200-08-01-.01(36). Where available, citations defining “general acute hospital” in state law are provided for reference in the appendices.

<sup>68</sup> Even where not explicitly exempted by law, it is likely that patients with a medically contraindicated condition are not required to be vaccinated.

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<sup>69</sup> Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization for non-medical reasons.

<sup>70</sup> La. Stat. Ann. § 40:2022 requires “each licensed hospital” to offer the vaccine to parents of newborns, however unlike N.Y. Pub. Health Law § 2805-h does not specify that only the neonatal unit must offer the vaccine.

<sup>71</sup> N.Y. Pub. Health Law § 2805-h provides for general hospital “having a newborn nursery or providing obstetrical services.”

<sup>72</sup> Even where not explicitly exempted by law, it is likely that patients with a medically contraindicated condition are not required to be vaccinated.

<sup>73</sup> Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization for non-medical reasons.

<sup>74</sup> 410 Ind. Admin. Code 16.2-6-2 indicates that a “written order by the attending physician, contraindicating a new immunization, may alter the series” and also that a “planned program for booster immunization shall be maintained for each resident.”

<sup>75</sup> Even where not explicitly exempted by law, it is likely that patients with a medically contraindicated condition are not required to be vaccinated.

<sup>76</sup> Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization for non-medical reasons.