Menu of State Ambulatory Care Facility Influenza Vaccination Laws

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. 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**
  Requiring a healthcare facility to assess a healthcare worker or patient’s vaccination status

- **Administrative Requirements for Offering Vaccination**
  Requiring a healthcare facility to offer vaccination to a healthcare worker or patient

- **Administrative Requirements for Ensuring Vaccination**
  Requiring a healthcare facility to ensure that a healthcare worker or patient has been vaccinated, unless vaccination is specifically exempted or declined

- **Surgical Mask Requirements**
  Requiring a healthcare worker to wear a surgical mask during influenza (flu) season if he or she has been exempted from or declined influenza vaccination

The flu can be a serious disease that can lead to hospitalization and sometimes even death; anyone can get very sick from the flu, including people who are otherwise healthy. The flu is primarily a community-based infection that is transmitted in households and community settings. Each year, 5 to 20% of US residents acquire a flu virus infection, and many will seek medical care in ambulatory care settings. Deaths associated with the flu are most frequent among older adults. From the 1976 to 2007 seasons, an estimated yearly average of 21,098 flu-related deaths occurred among adults aged ≥65 years, corresponding to 90% of the estimated annual average flu deaths across all age groups.

CDC recommends that adults receive the flu vaccine annually. To learn more, visit CDC’s [Vaccine Information for Adults](https://www.cdc.gov/vaccines/) web page for information about this and other recommended vaccines.
Healthcare-associated infections, which can include flu, are “infections that occur during the course of healthcare delivery.” In hospitals and other healthcare settings, healthcare workers can spread the flu by passing germs from hands or clothes to other workers or to patients. The Advisory Committee on Immunization Practices recommends annual flu vaccination for all healthcare personnel to reduce flu-related morbidity and mortality among both healthcare personnel and their patients. Vaccination of healthcare providers has been associated with reduced work absenteeism and with fewer deaths among nursing home patients and elderly hospitalized patients.

Eleven states establish flu vaccination requirements for ambulatory care facility healthcare workers, and one state has requirements for ambulatory care facility patients. This menu assesses and gives examples of state laws that establish flu vaccination requirements for ambulatory care facility healthcare workers and patients.

### Ambulatory Care Facility Healthcare Worker Flu Vaccination Laws

Eleven states establish flu vaccination requirements for ambulatory care facility healthcare workers. These laws establish requirements based on the ambulatory care facility type and the type of vaccination requirements and, in some states, authorize certain vaccination exemptions.

### Examples by Ambulatory Care Facility Type

Ambulatory care facilities are healthcare facilities that provide outpatient medical services. Examples of ambulatory care facilities include birth centers, dialysis centers, and surgical centers.

#### All Ambulatory Care Facilities
- Under Rhode Island law, healthcare facilities, defined to include “ambulatory care facilities” are “responsible for reporting to the Department . . . the number of health care workers who received” the flu vaccination.

#### Other Ambulatory Care Facilities
- South Carolina law requires that all ambulatory surgical facilities ensure that “[a]ll direct care staff . . . have an annual influenza vaccination unless contraindicated or offered and declined.”
- In Tennessee, a Birthing Center shall have an annual influenza vaccination program which shall include . . . the offer of influenza vaccination to all staff.

### Examples by Requirement Type

#### Assessment
Nine states establish flu vaccination assessment requirements for ambulatory care facility healthcare workers.
- Under New Hampshire law, ambulatory surgical centers are required to “identify, track, and report on . . . coverage rates of influenza vaccination for health care personnel.”
- Oregon law requires that ambulatory surgical centers and dialysis facilities “submit an annual survey . . . regarding influenza vaccination of staff.” Facilities must report the “[n]umber of staff with a documented influenza vaccination during the previous influenza season.”

#### Administrative Offer
Four states require ambulatory care facilities to offer flu vaccination to healthcare workers.
• Per **Tennessee** law, birth centers “shall have an annual influenza vaccination program which shall include . . . [t]he offer of influenza vaccination to all staff and independent practitioners.”

• In **Illinois**, certain ambulatory care facilities, including ambulatory surgical treatment centers, freestanding emergency centers, and end stage renal disease facilities, “shall develop and implement a program that includes . . . [a] plan to offer seasonal, pandemic or any other influenza vaccine.”

**Administrative Ensure**
Seven states require ambulatory care facilities to ensure that healthcare workers are vaccinated against flu.

• Under **Massachusetts** law, clinics “shall ensure that all personnel are vaccinated with seasonal influenza vaccine unless an individual declines vaccination.”

• In **New Hampshire**, ambulatory surgical centers “shall immunize all consenting personnel for influenza.”

**Surgical Mask**
Three states require ambulatory care facility healthcare workers to wear surgical masks during flu season if they have been exempted from or declined vaccination.

• **New York** law states “[d]uring the influenza season, all healthcare and residential facilities and agencies shall ensure that all personnel not vaccinated against influenza for the current influenza season wear a surgical or procedure mask while in areas where patients or residents are typically present.”

• In **Colorado**, ambulatory care facilities must ensure “that each healthcare worker who does not have proof of immunization wears a surgical or procedure mask during influenza season when in direct contact with patients and in common areas.”

**Examples by Exemption Type**
States with flu vaccination requirements often permit exemptions from these requirements in certain circumstances, such as when vaccination is medically contraindicated or violates a person’s religious or philosophical beliefs.

**Medical**
Eight states permit medical exemptions for vaccination requirements. However, even where not explicitly exempted by law, it is likely that individuals with a medically contraindicated condition are not required to be vaccinated.

• Per **Colorado** law, all healthcare workers in ambulatory surgical centers are required to have either proof of immunization or “a medical exemption signed by a physician, physician’s assistant, advanced practice nurse or nurse midwife licensed in the State of Colorado stating that the influenza vaccination for that individual is medically contraindicated.”

• **Oregon** ambulatory surgical centers and dialysis facilities, “must submit an annual survey” reporting the “[n]umber of staff with a documented medical contraindication to influenza vaccination during the previous influenza season.”

CDC recommends that healthcare workers receive the flu vaccine annually. To learn more, visit CDC’s [Recommended Vaccines for Healthcare Workers](https://www.cdc.gov/vaccines/hcp/immunization-schedule/healthcare-workers.html) web page for information about this and other recommended vaccines.
Religious
Two states permit religious exemptions.45

- Illinois law provides that employees of ambulatory surgical treatment centers, end stage renal disease facilities, and freestanding emergency centers “may decline to accept the offer of vaccination” if “[v]accination is against the person’s religious beliefs.”46

- In Massachusetts, a clinic will not require flu vaccination if “vaccination is against the individual’s religious beliefs.”47

Philosophical
Eight states permit philosophical exemptions.48

- Under Tennessee law, “(e) An Outpatient Diagnostic Center shall have an annual influenza vaccination program which shall include at least . . . [a] signed declination statement on record from all who refuse the influenza vaccination for reasons other than medical contraindications . . . .”49

- Rhode Island law states that an “[a]nnual influenza vaccination is required for all health care workers” and requires ambulatory care facilities to track the “number of health care workers who decline annual influenza vaccination for medical or personal reasons.”50

Ambulatory Care Facility Patient Flu Vaccination Laws
One state, Texas, establishes flu vaccination laws for ambulatory care facility patients.51 In Texas, flu vaccination requirements are for only one type of ambulatory care facility, end-stage renal dialysis facilities, and only for patients in those facilities aged 65 or older, unless medically contraindicated.

Example by Ambulatory Care Facility Type: End-Stage Renal Dialysis Facility
- Under Texas law, “The executive commissioner by rule shall require an end stage renal disease facility to offer, to the extent possible as determined by the facility, the opportunity to receive the pneumococcal and influenza vaccines to each elderly person who receives ongoing care at the facility if a physician, or an advanced nurse practitioner or physician assistant on behalf of a physician, determines that the vaccine is in the person’s best interest.”52

Example by Patient Type: Patients Aged 65 Years or Older
- Under Texas law, “The [end stage renal disease] facility shall adopt, implement, and enforce a policy for offering and providing pneumococcal and influenza vaccines for elderly persons. The policy shall . . . establish that an elderly person, defined as 65 years of age or older, who receives ongoing care at the facility, is offered, to the extent possible as determined by the facility, the opportunity to receive the pneumococcal and influenza vaccines.”53

Example by Requirement Type: Assessment and Offer Requirements
- Under Texas law the individuals administering the vaccine must also “ask whether the elderly person is currently vaccinated against the influenza virus or pneumococcal disease, as appropriate.”54

- Per Texas law, end stage renal disease facilities, “. . .shall adopt, implement, and enforce a policy for offering. . . influenza vaccines.”55

Example by Exemption Type: Medical
- Texas law requires that the person administering the vaccine “assess potential contraindications.”56
Acknowledgments and Disclaimers
This document was developed by Hillary Li, JD candidate 2017 at the University of North Carolina School of Law and fall 2016 extern with the Public Health Law Program; Aila Hoss, JD, Carter Consulting, Inc.; Alexandra Bhatti, JD, MPH, Chenega Professional and Technical Services, LLC; and Dawn Pepin, JD, MPH, Chenega Professional and Technical Services, LLC, with the Public Health Law Program (PHLP). This document was produced in collaboration with CDC’s National Center for Immunization and Respiratory Diseases. The authors would like to thank Lindsay Culp, JD, MPH, Megan Lindley, MPH, and Matthew Penn, JD, MLIS, for their research and editorial assistance.

For further technical assistance with this inventory, please contact phlawprogram@cdc.gov. PHLP provides technical assistance and public health law resources to advance the use of law as a public health tool. PHLP cannot provide legal advice on any issue and cannot represent any individual or entity in any matter. PHLP recommends seeking the advice of an attorney or other qualified professional with 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 September 9–November 8, 2016.

Published April 20, 2017.
### Appendix 1

#### Ambulatory Care Facility Healthcare Worker Influenza Vaccination Laws

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<thead>
<tr>
<th>State</th>
<th>Citation</th>
<th>All AC facilities</th>
<th>Outpatient facility</th>
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*All AC facilities include outpatient, ambulatory surgical, renal dialysis, diagnostic, birthing, treatment, and clinic settings. Freestanding emergency facilities are also included. Exemptions may vary by state. Medical and religious exemptions are indicated as applicable.*
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<thead>
<tr>
<th>State</th>
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*Provision includes definition.*
# Appendix 2

## Ambulatory Care Facility Patient Influenza Vaccination Laws

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*Provision includes definition.
Readability 1.00


3 Id.

4 Id.


8 Id.


16 California, Colorado, Illinois, Massachusetts, Nevada, New Hampshire, New York, Oregon, Rhode Island, South Carolina, and Tennessee. See appendix 1 for citations.

17 Texas. See appendix 2 for citations.

18 CDC’s Public Health Law Program conducted a search for state statutes and regulations that establish express influenza vaccination requirements for ambulatory care facility healthcare workers and patients using WestlawNext, a legal research database. Searches were conducted in all states and the District of Columbia between September 9–November 8, 2016. This assessment did not capture state requirements that incorporate CDC vaccination recommendations by reference. Laws regarding childhood vaccinations, school vaccinations, immunization registries, blood, tissue, and organ donor requirements, post-exposure vaccinations, physician standing orders, and primary care providers and individual healthcare provider requirements to vaccinate patients were not within the scope of this assessment. Laws establishing vaccination requirements as a condition for participation in a health plan were also excluded.

19 California, Colorado, Illinois, Massachusetts, Nevada, New Hampshire, New York, Oregon, Rhode Island, South Carolina, and Tennessee. See appendix 1 for citations.


21 See, e.g., TENN. COMP. R. & REGS. 1200-08-24-.06 (birthing centers); 31 R.I. CODE R. 1-22:3.0. (listing various ambulatory care facilities, including end-stage renal disease centers and freestanding emergency centers); MASS. CODE REGS. 140.150 (clinics).

22 Id. at 1-22:2.1(b).

23 31 R.I. CODE R. 1-22:3.5.4(a).

24 S.C. CODE ANN REGS. 61-91 § 1502(B).

25 TENN. COMP. R. & REGS. 1200-08-24-.06(13).

26 California, Colorado, Massachusetts, Nevada, New Hampshire, New York, Oregon, Rhode Island, and South Carolina. See appendix 1 for citations.

27 N.H. CODE ADMIN. R. He-P 309.02(d)(2).
Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.

California, Colorado, Illinois, Massachusetts, Oregon, Rhode Island, South Carolina, and Tennessee. See appendix 1 for citations.


See, e.g., 6 Colo. Code Regs. 1011-1:II-10.8(A)(2); Ill. Admin. Code tit. 77, § 956.30(c)(1)(B); Mass. Code Regs. 140.150(F)(c). Note that even where not explicitly exempted by law, it is likely that patients with a medically contraindicated condition are not required to receive a vaccination.

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Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.

Colorado law states that “[i]f a licensed healthcare entity demonstrates that it has vaccinated a targeted percentage of its employees in a given year, using its own methodology, it shall be exempt from the [administrative and surgical mask] requirements.” 6 Colo. Code Regs. 1011-1:II-10.6.

Colorado law states that “[i]f a licensed healthcare entity demonstrates that it has vaccinated a targeted percentage of its employees in a given year, using its own methodology, it shall be exempt from the [administrative and surgical mask] requirements.” Id.

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6 Colo. Code Regs. 1011-1:II-10.11(B) references exemptions but does not specify the type. Given that 6 Colo. Code Regs. 1011-1:II-10.8(A)(2) refers to medical exemptions for healthcare workers at ambulatory surgical centers, PHLP assumed that the exemption references for birth centers referred to medical exemptions.

4 N.H. Code Admin. R. He-P 812.20 states that “The licensee shall immunize all consenting personnel for influenza . . . and report immunization data to the department’s immunization program.” PHLP did not interpret the phrase “all consenting” as a right to decline.
64 Note that even where not explicitly exempted by law, it is likely that patients with a medically contraindicated condition are not required to receive a vaccination.

65 Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.

66 Per R.I. CODE R. 1-22:2.1, the term “health care facility” “also includes organized ambulatory care facilities which are not part of a hospital but which are organized and operated to provide health care services to outpatients.” Id. at 2.1(b). But, it does not include “organized ambulatory care facilities owned and operated by professional service corporations . . . or to a private practitioner’s (physician, dentist, or other health care provider) office or group of the practitioners’ offices (whether owned and/or operated by an individual practitioner, alone or as a member of a partnership, professional service corporation, organization, or association).” Id. at 2.1(c).

67 TENN. COMP. R. & REGS. 1200-08-24-.06(13)(a) requires that birth centers “offer of influenza vaccination to all staff and independent practitioners at no cost to the person or acceptance of documented evidence of vaccination.” PHLP considered this an administrative ensure requirement.

68 TENN. COMP. R. & REGS. 1200-08-35-.06(7)(e)(1) requires that diagnostic centers “offer of influenza vaccination to all staff and independent practitioners at no cost to the person or acceptance of documented evidence of vaccination.” PHLP considered this an administrative ensure requirement.

69 TENN. COMP. R. & REGS. 1200-08-32-.04(8)(c)(1) requires that dialysis centers “offer of influenza vaccination to all staff and independent practitioners at no cost to the person or acceptance of documented evidence of vaccination.” PHLP considered this an administrative ensure requirement.

70 TENN. COMP. R. & REGS. 1200-08-10-.06(11)(a) requires that ambulatory surgical treatment centers “offer of influenza vaccination to all staff and independent practitioners at no cost to the person or acceptance of documented evidence of vaccination.” PHLP considered this an administrative ensure requirement.

71 Limited to pediatric emergency care facilities.

72 TENN. COMP. R. & REGS. 1200-08-30-.05(5)(a) requires that pediatric emergency care facilities “offer of influenza vaccination to all staff and independent practitioners at no cost to the person or acceptance of documented evidence of vaccination.” PHLP considered this an administrative ensure requirement.

73 Note that even where not explicitly exempted by law, it is likely that patients with a medically contraindicated condition are not required to receive a vaccination.

74 Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.