



# Public Health Law

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

## Menu of State Ambulatory Care Facility Pneumococcal 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 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>

*Streptococcus pneumoniae* bacteria, or pneumococcus, can cause many types of illnesses; some of these illnesses can be life-threatening.<sup>5</sup> In fact, pneumococcus is one of the most common causes of severe pneumonia.<sup>6</sup> Each year in the United States, invasive pneumococcal disease causes thousands of infections, such as meningitis, bloodstream infections, and pneumonia.<sup>7</sup> Pneumococcal vaccines are very good at preventing severe disease, hospitalization, and death.<sup>8</sup>

In healthcare settings, pneumococcal bacteria can spread between healthcare workers and patients through direct contact with respiratory secretions.<sup>9</sup> Despite the risks associated with pneumococcal bacterial infection, no state establishes pneumococcal vaccination requirements for healthcare workers in ambulatory care facilities, and currently only one state—Texas—has requirements for patients in these facilities.<sup>10</sup>

This menu assesses Texas's laws, which expressly establish pneumococcal vaccination requirements for patients at renal dialysis facilities, a type of ambulatory care facility.<sup>11</sup> Research for this menu did not reveal

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CDC recommends that adults aged 65 years or older receive the pneumococcal vaccine. Visit CDC's [Recommended Vaccines for Adults](#) web page for information about this and other recommended vaccines. To learn more, visit CDC's [Pneumococcal Vaccination](#) page.



additional states with laws related to ambulatory care facilities in general or to specific types of ambulatory care facilities, such as birth centers or surgical centers.

## **Texas Pneumococcal Vaccination Laws for Ambulatory Care Facility Patients**

Ambulatory care facilities are healthcare facilities that provide outpatient medical services. Examples of ambulatory care facilities include birth centers, dialysis facilities, and surgical centers. Texas is the only state with a law that establishes pneumococcal vaccination requirements for ambulatory care patients, specifically patients in dialysis facilities for end-stage renal disease.

### **Facility Type: Dialysis Facility for End-Stage Renal Disease (ESRD)**

- ESRD facilities provide dialysis treatment or training to individuals with end-stage renal disease.<sup>12</sup> Texas law “require[s] an end stage renal disease facility to offer, to the extent possible as determined by the facility, the opportunity to receive the pneumococcal” vaccination.<sup>13</sup>

### **Individual Type: Patients 65 and Older**

- The person administering a vaccine in an ESRD facility must “ask whether the elderly person is currently vaccinated against . . . pneumococcal disease.”<sup>14</sup> Texas law defines “elderly person” as “a person who is 65 years of age or older.”<sup>15</sup>

### **Requirement Type: Assessment Requirements and Offer Requirements**

- The person administering the vaccine must also “ask whether the elderly person is currently vaccinated against the influenza virus or pneumococcal disease, as appropriate.”<sup>16</sup>
- Texas law “require[s] an end stage renal disease facility to offer, to the extent possible as determined by the facility, the opportunity to receive the pneumococcal” vaccine.<sup>17</sup>

### **Exemption Type: Medical**

- Once an elderly patient has elected to receive the pneumococcal vaccination, the person administering the vaccine must make an assessment for medical contraindications before he or she “administer[s] the vaccine under institution-approved or physician-approved protocols . . .”<sup>18</sup> 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.

## **Acknowledgments and Disclaimers**

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For further technical assistance with this inventory, please contact [phlawprogram@cdc.gov](mailto: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 October 19–27, 2016.*

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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”. This change did not alter the coding results.

## Appendix

### Pneumococcal Vaccination Laws for Ambulatory Care Facility Patients

State	Citation	Patient Type			Ambulatory Care Facility Type		Requirement Type			Exemptions			
		All patients	65+ years of age	Patients at risk	All AC facilities	ESRD Facility	Assessment	Administrative offer	Administrative ensure	None specified	Medical	Religious	Philosophical <sup>19</sup>
TX	V.T.C.A., Health & Safety Code § 161.0052, Tex. Health & Safety Code Ann. § 251.001*		X			X	X	X			X		
	25 TAC § 117.33, 25 TAC § 117.2*		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> Meagan Lindley, Gail Horlick, Abigail Shefer, Fredric Shaw & Margaret 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> [Types of Infection](#), CENTERS FOR DISEASE CONTROL AND PREVENTION, (last visited Jan. 17, 2017).

<sup>6</sup> [Types of Infection](#), CENTERS FOR DISEASE CONTROL AND PREVENTION, (last visited Jan. 17, 2017).

<sup>7</sup> [Pneumococcal Vaccination](#), CENTERS FOR DISEASE CONTROL AND PREVENTION, (last visited Jan. 17, 2017).

<sup>8</sup> [Pneumococcal Vaccination](#), CENTERS FOR DISEASE CONTROL AND PREVENTION, (last visited Jan. 17, 2017).

<sup>9</sup> [About Pneumococcal Disease](#), CENTERS FOR DISEASE CONTROL AND PREVENTION, (last visited Jan. 12, 2017).

<sup>10</sup> Texas. See appendix for citations.

<sup>11</sup> CDC's Public Health Law Program conducted a search for state statutes and regulations that establish pneumococcal vaccination requirements for ambulatory care healthcare workers and patients using WestlawNext, a legal research database. Searches were conducted in all states and the District of Columbia on October 19, 2016. This assessment did not capture state requirements that incorporate CDC vaccination recommendations by reference. Laws not within the scope of this assessment included those 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. Laws establishing vaccination requirements as a condition for participation in a health plan were also excluded.

<sup>12</sup> TEX. HEALTH & SAFETY CODE ANN. § 251.001(6).

<sup>13</sup> See TEX. HEALTH & SAFETY CODE ANN. § 161.0052; 25 TEX. ADMIN. CODE § 117.33.

<sup>14</sup> TEX. HEALTH & SAFETY CODE ANN. § 161.0052(e).

<sup>15</sup> TEX. HEALTH & SAFETY CODE ANN. § 161.0052(a).

<sup>16</sup> TEX. HEALTH & SAFETY CODE ANN. § 161.0052(e).

<sup>17</sup> TEX. HEALTH & SAFETY CODE ANN. § 161.0052(c).

<sup>18</sup> *Id.*

<sup>19</sup> Philosophical exemptions include exemptions based on philosophical or personal beliefs or those allowing the right to decline an immunization.