



Public Health Law

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

Menu of State Healthcare Facility Varicella 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.¹ 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.²
- **Administrative Requirements for Offering Vaccination**
The healthcare facility must offer a vaccination to a healthcare worker or patient.³
- **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.⁴

Chickenpox, or varicella, is a highly contagious disease that causes rash, itching, fatigue, and fever.⁵ It is caused by the varicella-zoster virus and can be serious in certain populations, such as infants, adults, and those with weakened immune systems.⁶ People can demonstrate immunity to chickenpox after receiving the varicella vaccination⁷ or through a diagnosis or verification of a history of the disease.⁸ In healthcare settings, varicella can be spread through the air and by touch to or from healthcare workers or patients.⁹

Six states establish varicella vaccination and immunity requirements for healthcare workers¹⁰ and one state establishes requirements for certain patients.¹¹ This menu assesses and provides examples of state laws that expressly establish varicella vaccination requirements for healthcare workers and patients in hospitals, long-term care facilities, and ambulatory care facilities.¹² For the purposes of this menu, "vaccination laws" refer to laws regarding both vaccination and demonstrating varicella immunity.

CDC recommends the varicella vaccination for children and adults. To learn more, visit CDC's [Who Needs Chickenpox Vaccine](#) webpage for information about this and other recommended vaccines.



Examples by Facility Type

Four states establish varicella vaccination laws for healthcare workers in hospitals.¹³ Four states establish varicella vaccination laws for healthcare workers in certain long-term care facilities.¹⁴ Five states establish varicella vaccination laws for healthcare workers or patients in certain ambulatory care facilities.¹⁵

Hospital Type

Hospitals are healthcare facilities that provide inpatient, diagnostic, and therapeutic services for both surgical and nonsurgical conditions, 24 hours a day.¹⁶ Four state varicella vaccination provisions expressly reference hospitals or apply to various healthcare facilities that include hospitals by definition.

- **Maine** law states that “each Designated Healthcare Facility . . . shall require for all employees proof of immunization or documented immunity against . . . [varicella].”¹⁷ Under Maine law, Designated Healthcare Facilities are defined to include hospitals.¹⁸
- In **Oklahoma**, “[e]ach employee . . . in the hospital shall have a pre-employment health examination, which shall include . . . [a]n immunization history . . . The immunization history shall include documentation of immunity to measles, mumps, rubella and varicella.”¹⁹

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.”²⁰ Examples of long-term care facilities include nursing homes and nursing facilities, among others.²¹ Four state varicella vaccination provisions expressly reference long-term care facilities or apply to various healthcare facilities that are considered long-term care facilities.

- In **California**, healthcare facilities, which include “[s]killed nursing facilities” and “[l]ong term health care facilities,”²² must offer varicella vaccination to healthcare workers.²³
- **Maryland** requires comprehensive care facilities, defined as “a facility which admits patients . . . requiring medical service and nursing service rendered by or under the supervision of a registered nurse,”²⁴ and extended care facilities, defined as “a facility which offers subacute care, providing treatment services for patients requiring inpatient care but who do not currently require continuous hospital services,”²⁵ to “request that the employee receive immunization for varicella.”²⁶

Ambulatory Care Facility Type

Ambulatory care facilities are healthcare facilities that provide outpatient medical services.²⁷ Examples of ambulatory care facilities include birth centers, dialysis centers, and surgical centers, among others.²⁸ Five state varicella vaccination provisions expressly reference ambulatory care facilities or apply to various healthcare facilities that are considered ambulatory care facilities.

- In **New Jersey**, ambulatory care facilities providing pediatric dialysis services are required to administer varicella vaccine “to all patients over the age of 12 months who have not had documented varicella infection.”²⁹
- **South Carolina** requires direct care staff at ambulatory surgical facilities to be “vaccinated or have evidence of immunity for . . . varicella.”³⁰ South Carolina law defines ambulatory surgical facilities as “[a] facility organized and administered for the purpose of performing surgical procedures and/or endoscopy for which patients are scheduled to arrive, receive surgery, and be discharged on the same day.”³¹

Examples by Type of Individual

Six states establish varicella vaccination requirements for healthcare workers.³² One state establishes requirements for certain patients.³³

All Healthcare Workers

- In **Oklahoma**, “[e]ach employee . . . in the hospital shall have a pre-employment health examination, which shall include . . . [a]n immunization history . . . The immunization history shall include documentation of immunity to measles, mumps, rubella and varicella.”³⁴
- In **Rhode Island**, “evidence of immunity is required for all health care workers (with the exception of health care workers who receive a medical exemption) against . . . [v]aricella.”³⁵

All Healthcare Workers with Occupational Exposure

- **California** law requires that, “[t]he employer shall make available to all health care workers with occupational exposure all vaccinations recommended by the CDPH as listed in Appendix E . . .” Varicella is listed as a recommended vaccination in Appendix A.³⁶

Patients Over the Age of 12 Months

- In **New Jersey**, ambulatory care facilities providing pediatric dialysis services are required to administer the varicella vaccine “to all patients over the age of 12 months who have not had documented varicella infection.”³⁷

Examples by Requirement Type

Seven states establish varicella vaccination laws for healthcare workers or certain patients.³⁸ Six states establish assessment of vaccination status requirements for healthcare workers in certain facilities.³⁹ Two states establish administrative requirements for offering vaccinations to healthcare workers in certain facilities.⁴⁰ Four states establish administrative requirements for ensuring vaccination for healthcare workers in certain facilities.⁴¹ One state establishes administrative requirements for ensuring vaccination for certain patients in certain ambulatory care facilities.⁴²

Assessment Requirements

- **Maryland** law requires comprehensive care facilities and extended care facilities to “screen all new employees for immunity to common childhood infections such as mumps, rubella, measles, and chicken pox (varicella), through the use of pre-employment questionnaires and, if appropriate, serologic testing for presence of antibodies of these diseases.”⁴³ Maryland law further requires these facilities to “inquire about a history of varicella for each new employee. If the employee's history is unclear, then the facility shall request a serology for varicella.”⁴⁴
- **Rhode Island** law requires that “[a] pre-employment health screening shall be required for each health care worker involved in direct patient contact. Acceptable evidence shall be provided by the health care worker that testing and/or immunization for,”⁴⁵ varicella has occurred.⁴⁶

Administrative Requirements for Offering Vaccinations

- **California** hospitals “shall make available to all health care workers” the varicella vaccination.⁴⁷

Administrative Requirements for Ensuring Vaccinations

- **New Jersey** law requires that the “[v]aricella vaccine shall be administered to all patients over the age of 12 months who have not had documented varicella infection” by ambulatory care facilities providing pediatric dialysis services.⁴⁸
- Under **South Carolina** law, healthcare workers at ambulatory surgical centers must be “vaccinated or have evidence of immunity for measles, rubella, and varicella prior to patient contact unless contraindicated or offered and declined.”⁴⁹

Examples by Exemption Type

States with varicella vaccination requirements often explicitly permit exemptions from these requirements in certain circumstances,⁵⁰ such as when vaccination is medically contraindicated or violates a person’s religious or philosophical beliefs.⁵¹ Five states permit medical exemptions for healthcare workers,⁵² 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. One state permits religious exemptions for healthcare workers;⁵³ and four states permit philosophical exemptions for healthcare workers.⁵⁴

Medical⁵⁵

- **California** law outlines that “[r]ecommended vaccinations shall be made available to all employees . . . unless . . . [t]he vaccine(s) is contraindicated for medical reasons.”⁵⁶
- In **Rhode Island**, healthcare workers can be exempt from the varicella immunization requirement “provided that a physician, physician assistant, or certified registered nurse practitioner signs a medical exemption stating that the health care worker is exempt from a specific vaccine because of medical reasons.”⁵⁷

Religious

- In **Maine**, an employee may be exempt from receiving the varicella vaccination if “[t]he employee states in writing an opposition to immunization because of a sincere religious belief.”⁵⁸

Philosophical⁵⁹

- **Maryland** comprehensive care facilities and extended care facilities are required to “request that the employee receive immunization for varicella” if they cannot demonstrate immunity to varicella.⁶⁰ Maryland law further states that “[i]f the employee refuses to be immunized, the facility shall document the refusal and the reason for the refusal.”⁶¹
- **South Carolina** requires vaccination or evidence of immunity for healthcare workers in ambulatory surgical facilities unless “offered and declined.”⁶²

Acknowledgments and Disclaimers

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CDC recommends the varicella vaccination for healthcare workers. To learn more, visit CDC’s [Recommended Vaccines for Healthcare Workers](#) webpage for information about this and other recommended vaccines.

Assurance, LLC, with the Public Health Law Program (PHLP) within CDC's Office for State, Tribal, Local and Territorial Support. This document was produced in collaboration with CDC's National Center for Immunization and Respiratory Diseases. The authors 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, October 16–28, 2015.

Published April 21, 2016 & updated October 2017.

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. Updates also include change in the interpretation of **Offer Requirement** such that an offer includes conditions whereby a facility is required to offer, provide, make available, arrange for vaccination, or similar language that results in the facility being responsible for providing the individual the opportunity to receive the vaccination. This did change the coding results; offer requirements identified based on this change are indicated by a dagger†.

Appendix 1

Hospital Varicella Vaccination Laws												
State	Citation	Facility Type	Individual Type			Requirement Type			Exemptions			
			All Healthcare Workers (HCW)	HCW with Occupational Exposure (OE)	All Patients	Assessment	Admin Offer	Admin Ensure	None Specified	Medical ⁶³	Religious	Philosophical ⁶⁴
CA	Cal. Code Regs. tit. 8, § 5199,* Appendix C1, Appendix E	X	X	X		X	X			X		X
ME	10-144 Me. Code R. Ch. 264, §§ 2, 3, 4, 1 (D)* Me. Rev. Stat. Ann. tit. 22, § 1843*	X	X			X		X		X	X	X
OK	Okla. Admin. Code §§ 310:667-5-4, 310:667-1-2*	X	X			X				X		
RI	31 R.I. Code R. 1-22:3.0, 1-22:5.0, 1-22:1.0,* 1-22:2.0*	X	X			X		X		X		

*Provisions include definition.



Appendix 2

Long-Term Care Facility (LTC) Varicella Vaccination Laws															
State	Citation	Facility Type				Individual Type			Requirement Type			Exemptions			
		All LTC	Nursing Facility	Comprehensive Care Facility	Extended Care Facility	All HCW	HCW with OE	All Patients	Assessment	Admin Offer	Admin Ensure	None Specified	Medical ⁶⁵	Religious	Philosophical ⁶⁶
CA	Cal. Code Regs. tit. 8, § 5199,* Appendix C1, Appendix E	X	X				X		X	X			X		X
ME	10-144 Me. Code R. Ch. 264, §§ 2, 3, 1 (D)*; 10-144 Me. Code R. Ch. 110, Ch. 1*		X ⁶⁷			X					X		X	X	X
MD	Md. Code Regs. 10.07.02.21-1, 10.07.02.01*			X	X	X			X		X ⁶⁸				X
RI	31 R.I. Code R. 1-22:3.0, 1-22:5.0, 1-22:1.0,* 1-22:2.0*		X			X			X		X		X		

*Provisions include definition.

Appendix 3

Ambulatory Care (Amb. Care) Facility Varicella Vaccination Laws																							
State	Citation	Facility Type											Individual Type			Requirement Type			Exemptions				
		All Amb. Care	Treatment Center	Diagnostic Center	Out-patient Clinic	Kidney Disease Center	Health Centers	Emergency Care Center	Surgical Center	Out-patient Medical Facility	Pediatric Dialysis Facility	Birth Center	All HCW	HCW with OE	All Patients	Patient >12 Months of Age	Assessment	Admin Offer	Admin Ensure	None Specified	Medical ⁶⁹	Religious	Philosophical ⁷⁰
CA	Cal. Code Regs. tit. 8, § 5199,* Appendix C1, Appendix E				X						X						X	X				X	X
NJ	N.J. Admin. Code §§ 8:43A-24.17, 8:43A-24.2*										X				X	X	X†	X	X				
OK	Okla. Admin. Code §§ 310:667-5-4, 310:667-1-2*											X	X			X		X		X			
RI	31 R.I. Code R. 1-22:3.0, 1-22:5.0, 1-22:1.0,* 1-22:2.0*	X	X	X	X	X	X	X	X					X			X		X		X		
SC	S.C. Code Ann. Regs. 61-91.1502, 61-91.101*													X			X		X		X		X

*Provisions include definition.

† Note that this was added as part of the broadened offer requirement change in the September 2017 update.

¹ Alexandra Stewart et al. *Mandatory Vaccination of Health-Care Personnel: Good Policy, Law, and Outcomes*, 53 *Jurimetrics J.* 341 (Apr. 2013).

² 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).

³ *Id.*

⁴ *Id.*

⁵ Centers for Disease Control and Prevention, [Chickenpox Overview](#) (last visited Dec. 28, 2015).

⁶ *Id.*

⁷ *Id.*

⁸ Centers for Disease Control and Prevention, [Assessing Immunity to Varicella](#), (last visited Dec. 28, 2015).

⁹ *Chickenpox Overview*, *supra* note 5.

¹⁰ California, Maine, Maryland, Oklahoma, Rhode Island, and South Carolina. See appendices for citations.

¹¹ New Jersey. See Appendix 3 for citations.

¹² CDC's Public Health Law Program conducted a search for state statutes and regulations that establish express varicella 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 October 16–28, 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.

¹³ California, Maine, Oklahoma, and Rhode Island. See appendices for citations.

¹⁴ California, Maine, Maryland, and Rhode Island. See appendices for citations.

¹⁵ California, New Jersey, Oklahoma, Rhode Island, and South Carolina. See appendices for citations.

¹⁶ *See, e.g.*, Neb. Rev. Stat. § 71-419; N.Y. Pub. Health Law § 2801.

¹⁷ 10-144 Me. Code R. Ch. 264, § 2(A)(4).

¹⁸ *Id.* § 1(D).

¹⁹ Okla. Admin. Code § 310:667-5-4(a).

²⁰ Centers for Disease Control and Prevention, [Nursing Home and Assisted Living \(Long-Term Care Facilities \[LTCFs\]\)](#), (last visited Dec. 31, 2015). 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.

²¹ *See, e.g.*, West's Ann. Cal. Health & Safety Code § 1418(a); 31 R.I. Code R. 1-20:1.11

²² Cal. Code Regs. tit. 8, § 5199(a)(1)(A).

²³ *Id.* § 5199 & Appendix E.

²⁴ Md. Code Regs. 10.07.02.01(B)(6)

²⁵ *Id.* 10.07.02.01(B)(12)

²⁶ *Id.* 10.07.02.01, 10.07.02.21-1.

²⁷ Centers for Disease Control and Prevention, [Guide to Infection Prevention for Outpatient Settings: Minimum Expectations for Safe Care](#) (last visited Dec. 31, 2015).

²⁸ *See, e.g.*, Okla. Stat. Ann. tit. 63, § 1-701(6); 31 R.I. Code R. 4-14:1.10; S.C. Code Ann. Regs. 61-91.101(E).

²⁹ N.J. Admin. Code § 8:43A–24.17(e)(2).

³⁰ S.C. Code Ann. Regs. 61-91.1502(C).

³¹ *Id.* 61-91.101(E).

³² California, Maine, Maryland, Oklahoma, Rhode Island, and South Carolina. See appendices for citations.

³³ New Jersey. See Appendix 3 for citations.

³⁴ Okla. Admin. Code § 310:667-5-4(a).

³⁵ 31 R.I. Code R. 1-22:3.0-3.5.

³⁶ Cal. Code Regs. tit. 8, § 5199.

³⁷ N.J. Admin. Code § 8:43A–24.17(e)(2).

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- ³⁸ California, Maine, Maryland, New Jersey, Oklahoma, Rhode Island, and South Carolina. See appendices for citations.
- ³⁹ California, Maine, Maryland, Oklahoma, Rhode Island, and South Carolina. See appendices for citations.
- ⁴⁰ California and New Jersey. See appendices for citations.
- ⁴¹ Maine, Maryland, Rhode Island, and South Carolina. See appendices for citations.
- ⁴² New Jersey. See Appendix 3 for citations.
- ⁴³ Md. Code Regs. 10.07.02.21-1(B)(5).
- ⁴⁴ *Id.* 10.07.02.21-1(B)(8).
- ⁴⁵ 31 R.I. Code R. 1-22:3.1.
- ⁴⁶ *Id.* 1-22:3.5.2.
- ⁴⁷ Cal. Code Regs. tit. 8, § 5199 & Appendix E.
- ⁴⁸ N.J. Admin. Code § 8:43A–24.17(e)(2).
- ⁴⁹ S.C. Code Ann. Regs. 61-91.1502(C).
- ⁵⁰ *See, e.g.*, N.H. Rev. Stat. Ann. § 151:9-b(IV); 105 Mass. Code Regs. 130-325(B). 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.
- ⁵¹ Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.
- ⁵² California, Maine, Oklahoma, Rhode Island, and South Carolina. See appendices for citations. 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.
- ⁵³ Maine. See appendices for citations.
- ⁵⁴ California, Maine, Maryland, and South Carolina. See appendices for citations.
- ⁵⁵ 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.
- ⁵⁶ Cal. Code Regs. tit. 8, § 5199.
- ⁵⁷ 31 R.I. Code R. 1-22:5.1.
- ⁵⁸ 10-144 Me. Code R. Ch. 264, §3(B).
- ⁵⁹ Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.
- ⁶⁰ Md. Code Regs. 10.07.02.21-1(B)(8).
- ⁶¹ *Id.*
- ⁶² S.C. Code Ann. Regs. 61-91.1502(C).
- ⁶³ 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.
- ⁶⁴ Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.
- ⁶⁵ 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.
- ⁶⁶ Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.
- ⁶⁷ This includes both nursing facilities and multi-level facilities. 10-144 Me. Code R. Ch. 110, Ch. 1 defines a multi-level facility as “any nursing facilities that are located on the same contiguous grounds with licensed assisted living services, congregate housing services, or home health services.”
- ⁶⁸ PHLP considered the “shall request” language as an administrative ensure requirement not an administrative offer requirement.
- ⁶⁹ 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.
- ⁷⁰ Philosophical exemptions include exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.