The Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Public Health

Bureau of Health Care Safety and Quality

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**Memorandum**

**TO:** Ambulatory Surgical Center Chief Executive Officers

**FROM:**          Elizabeth Daake Kelley, MPH, MBA, Director

Bureau of Health Care Safety and Quality

**SUBJECT:**   Ambulatory Surgical Center Personnel Vaccination for COVID-19 and Influenza

**DATE:** November 6, 2023

The purpose of this memorandum is to inform Massachusetts ambulatory surgical centers of the steps needed to fulfill the Massachusetts Department of Public Health (DPH) requirement to vaccinate healthcare personnel (HCP) for influenza and COVID-19 and to submit these data in accordance with DPH guidelines outlined in this memorandum.

**COVID-19 and Influenza Vaccination Requirement**:

As a condition of licensure, under 105 CMR 140.150, DPH clinic licensure regulations require licensed ambulatory surgical centers to ensure all HCP are vaccinated annually with seasonal influenza vaccine and are up to date with vaccine doses for COVID-19 as recommended by the Centers for Disease Control and Prevention (CDC), unless an individual is exempt from vaccination. For the purposes of this memo, being up to date with vaccine doses for COVID-19 means that HCP must receive one updated COVID-19 vaccine, at least two months after getting the last dose of any COVID-19 vaccine.[[1]](#footnote-1) An individual who has not previously received any doses of COVID-19 vaccine but who receives one dose of the updated COVID-19 vaccine is also up-to-date.

HCP means an individual or individuals who either work at or come to the licensed clinic site and who are employed by or affiliated with the clinic, whether directly, by contract with another entity, or as an independent contractor, paid or unpaid including, but not limited to, employees, members of the medical staff, contract employees or staff, students, and volunteers, whether or not such individual(s) provide direct care.

All HCP, who are not subject to an exemption, must be up to date withCOVID-19 vaccine no later than December 31, 2023.  In alignment with the CDC and the Centers for Medicare and Medicare Care Services (CMS), all HCP, who are not subject to an exemption, must have received the 2023-2024 seasonal influenza vaccine no later than March 31, 2024.

For any individual that is subject to the vaccine exemption, the ambulatory surgical center may choose to require such individual to take mitigation measures in addition to continuing to self-assess for any signs or symptoms of illness. Mitigation measures that the ambulatory surgical center may require an individual to take if they are exempt from vaccination include, but are not limited to:

* wearing a facemask during all patient care encounters for the duration of the respiratory illness season; and
* avoiding direct patient care.

DPH continues to recommend staff using personal protective equipment consistent with the Department’s [Comprehensive PPE Guidance](https://www.mass.gov/doc/updated-comprehensive-personal-protective-equipment-2/download).

**Facility Documentation**:

The regulation requires ambulatory surgical centers maintain for each individual proof of seasonal influenza vaccination and being up-to-date with COVID-19 vaccination or the individual’s declination statement should the HCP decline vaccination. This must be maintained via a central system to track the vaccination status of all personnel and available to DPH upon request. Examples of individual proof of current vaccination include but are not limited to:

* Copy of CDC Vaccination Card
* Copy of MA Immunization Information System (MIIS) Vaccination Record
* Copy of vaccination from an electronic health record
* COVID-19 SmartHealthcard from the Commonwealth’s MyVaxRecords public portal

Declination statements from personnel must include a signed statement certifying they received information about the risks and benefits of COVID-19 and/or influenza vaccine.

**Ambulatory Surgical Center Reporting:**

To comply with the regulation, all Massachusetts ambulatory surgical centers must annually report its aggregate HCP COVID-19 and influenza vaccination summary data via CDC’s National Health Safety Network (NHSN) and make the data available to DPH in NHSN. NHSN training materials are located at: <http://www.cdc.gov/nhsn/training/index.html>

In alignment with CDC and CMS, ambulatory surgical centers must submit HCP COVID-19 vaccination data to CDC’s NHSN by **February 15, 2024** and HCP influenza vaccination data to CDC’s NHSN by **May 15, 2024**.

Please submit questions concerning the reporting and data submission requirements to the Bureau of Health Care Safety and Quality at dhcq.fludata@state.ma.us.

1. Updated COVID-19 vaccine means one dose of the updated Pfizer-BioNTech, Moderna, or Novavax COVID-19 vaccine.  <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html> [↑](#footnote-ref-1)