

JOINT HEALTH OFFICER ORDER NO. 20-16b

ORDER OF THE HEALTH OFFICERS OF THE COUNTY OF ALAMEDA AND THE CITY OF BERKELEY MANDATING THAT ALL HEALTH CARE WORKERS WORKING IN THE COUNTY OF ALAMEDA AND THE CITY OF BERKELEY OBTAIN ANNUAL INFLUENZA VACCINATIONS FOR EVERY INFLUENZA SEASON

Date of Order: November 20, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, et seq.; Cal. Penal Code §§ 69, 148(a)(1))

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, 101475, AND 120175, THE HEALTH OFFICERS OF THE COUNTY OF ALAMEDA AND THE CITY OF BERKELEY (“HEALTH OFFICERS”) ORDER:

1. All Health Care Facilities and Specified Congregate Facilities (collectively, “Facilities”) listed in Appendix A to this Order operating in Alameda County or the City of Berkeley must implement a program requiring their Health Care Workers (HCWs) to receive an influenza vaccine for each influenza season. The Influenza Season dates are defined as November 1 to April 30 of the following year. The Health Officer(s) may extend this period in any year in which influenza surveillance data demonstrate an unusually late peak and continued widespread influenza activity in the spring.
2. This Order applies to all Facilities enumerated in Appendix A to this Order and to all Emergency Medical Services providers. This Order applies to all Facilities regardless of documented HCW influenza vaccination rate.
3. HCWs who obtain an influenza vaccination on or after November 1 must wear masks while in the presence of patients or the public for 14 days following the date of the vaccination to allow antibodies to develop in the body.
4. Mandatory flu vaccination programs developed by Facilities may allow for a medical exemption. Medical exemptions must be based upon a written recommendation from the primary health care provider stating a specific reason that the HCW should be medically exempted from receiving an influenza vaccination. Facility mandatory flu vaccination programs may also exempt HCWs from receiving an influenza vaccination as an accommodation based on disability or sincerely held religious belief consistent with the Facility’s policies and procedures for reasonable accommodation. If a Facility grants accommodation due to disability or religious belief, the Facility must provide aggregate data to the Public Health Department every month indicating the number or percentage of accommodations granted. Those HCWs exempt from receiving flu vaccination under this

Order must wear masks while in the presence of patients or the public unless they fall within the exemptions enumerated in the Face Covering Order.

5. For purposes of this Order, “Health Care Workers” or “HCWs” are persons, paid and unpaid, working in the health care settings listed in Appendix A to this Order who have direct patient contact or who work in patient care areas. In the hospital setting this includes all paid and unpaid persons working on hospital campus settings (including off-site locations) including but not limited to staff, physicians, volunteers, students, contracted employees, registration, and vendors. In addition to medical personnel these terms include dentists, chiropractors, and physical therapists, and each of their staff members that have contact with patients. HCWs working in ambulatory settings such as clinics, dental offices, PT/OT and other settings are also urged to receive a flu vaccination.
6. This Order is **mandatory** for all Facilities listed in Appendix A to this Order operating within the Health Officers’ jurisdiction, including in all incorporated cities and all unincorporated areas of the County.
7. This Order supersedes the 2013 Order of the Health Officers mandating influenza vaccinations for all HCWs. The purpose of this Order is to protect the health of HCWs, patients, and the broader community. During the COVID-19 pandemic it remains a top priority for HCWs to be vaccinated. The overlap in symptoms of this disease accompanied by the lack of effective treatment for COVID-19 requires additional public health intervention. Unlike in previous years, mask wearing is not a preferred alternative for vaccination under this Order.
8. Influenza is a highly communicable disease that is always present at varying levels in our community. Influenza infection rates and the severity of influenza symptoms increase markedly during the winter months, commonly known as “flu season,” requiring additional preventative measures during those months to combat the disease. Influenza infection accounts for an estimated 36,000 excess deaths in the US each year. Patients in our health care facilities are particularly vulnerable to influenza. Young children, the pregnant, the elderly, and those with chronic health conditions are at greater risk for influenza-related hospitalization and death. HCWs are both at risk for influenza and can transmit the virus to their vulnerable patients. Influenza outbreaks have occurred on a yearly basis in our County. This has led to direct transmission from the unimmunized health care workers to patients. Influenza vaccination of HCWs protects patients and reduces employee absenteeism during influenza season.
9. Although California law requires that some health care facilities offer influenza vaccinations to certain employees, employees may decline vaccination, resulting in lower rates of vaccination among HCWs. Local Health Officers can impose stricter mandates than the State to protect public health. This Order **mandates** that health care facilities implement a process for requiring HCW to receive vaccination unless an HCW can

produce sufficient documentation to obtain a medical exemption or is subject to accommodation for a disability or sincerely held religious belief.

10. Mandatory vaccination or masking policies have been shown to increase HCW vaccination rates to above 95%. After first mandating these policies in Alameda County and Berkeley in the 2013 influenza season, overall HCW flu vaccination rates increased from 72% to 86% in acute care inpatient facilities and continue to remain around 87-89%. Healthy People 2020 objectives target a 90 percent seasonal influenza vaccination rate for all health care personnel.
11. Under Government Code Sections 26602 and 41601 and Health and Safety Code Section 101029, the Health Officers request that the Sheriff and all Chiefs of Police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
12. This Order shall become effective at 12:01 a.m. on November 21, 2020. This Order is ongoing and applies to each yearly influenza season until it is rescinded, superseded, or amended in writing by the Health Officer(s).
13. If any provision of this Order or its application to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Nicholas J. Moss, MD, MPH
Interim Health Officer
County of Alameda



Lisa B. Hernandez, MD, MPH
Health Officer
City of Berkeley

**Appendix A – List of Long-Term Care Facilities or Other Agencies Subject to
Order 20-16b**

- Hospitals
- Psychiatric Health Facilities
- Skilled Nursing and other Long-Term Care Facilities
- Intermediate Care Facilities of all license types
- Hospice Facilities
- Outpatient Medical Clinics
- Home Health Agencies
- Dialysis Centers
- Residential Care Facilities for the Elderly
- Social Rehabilitation Facility
- Continuing Care Retirement Communities
- Adult Residential Care Facilities (ARF)
- Any other Facility directed to follow this Order by the Public Health Officer