



## **Summary of Healthcare Worker Masking Requirement When Influenza is Widespread**

Immunization regulations in Rhode Island require healthcare workers who are not vaccinated against seasonal influenza to wear a surgical face mask during direct patient contact if the Director of the Rhode Island Department of Health (HEALTH) declares influenza to be widespread. When the Director of Health declares this period to be over, the masking requirement is no longer be in effect (unless a new declaration is made at a later time).

Rhode Island Regulations Pertaining To Immunization, Testing, And Health Screening For Health Care Workers can be found at:

<http://sos.ri.gov/documents/archives/regdocs/released/pdf/DOH/7083.pdf>

- Unvaccinated healthcare workers do not have to wear a mask for an entire shift unless they have direct patient contact the entire shift. Infectious disease experts recommend using a new mask at least every four hours or sooner if the mask becomes too moist or soiled. The mask may be removed if no patients are near, or approaching near, the healthcare worker.
- Infectious disease experts also recommend that those wearing a mask should replace it if damaged; avoid touching the inside or outside of a mask that could be dirty; and remove a worn mask, discard into general trash, and then perform hand hygiene before touching any items.
- The regulations define “direct patient contact” as all routinely anticipated face-to-face contact with patients, such as when:
  - speaking with a patient in person
  - transporting a patient throughout facility
  - performing a procedure on a patient
  - participating in group patient activities
  - entering a patient’s room
  - handing out medications
  - in a cafeteria line
  - serving food to patients

The definition does not include times when a healthcare worker is in areas such as breakrooms or personal work stations that no patients approach.

- The regulations do not require healthcare workers to wear a mask for seven days after vaccination. However, it is still recommended practice to do so.
- The regulations clearly state in section 5.5 that “No healthcare worker shall be required to explain his or her refusal to obtain an annual seasonal influenza vaccination, nor shall any healthcare facility inquire into the basis of such refusal.” Nothing in the regulation allows or mentions that healthcare workers should or must be identified to the public. The requirement is to wear a mask -- not a badge or a colored dot, or anything but a surgical face mask. No explanation must be provided to employers or patients.
- Unvaccinated healthcare workers who do not sign a refusal or medical exemption form, and/or refuse to wear a mask, may be reported to the HEALTH complaint line at 222-

5200. Facilities that wish to take further action may consider consulting legal counsel and human resources staff, but must understand that the HEALTH regulations do not call for further discipline other than what HEALTH and/or the licensing board issues.

- Each year, December 15 is the deadline for healthcare workers reporting to the facility that employs them that they have received the influenza vaccination, have a medical exemption, or are refusing to get vaccinated. At a later date, healthcare facilities are required to report the numbers (not names) of healthcare workers who have received the influenza vaccination, who have a medical exemption, and who refuse.
- By December 15 of each year, any healthcare worker who refuses to obtain the influenza vaccine must file a form with their employer that must state: “I refuse to obtain the annual seasonal influenza vaccination. I understand that, by refusing such vaccination, it is my professional licensing obligation to wear a surgical face mask during each direct patient contact in the performance of my professional duties at any healthcare facility during any declared period in which flu is widespread. I understand that the consequence for failing to do so shall result in a one hundred dollar (\$100) fine for each violation. Failing to do so may also result in a complaint of Unprofessional Conduct being presented to the licensing board that has authority over my professional license. I understand that such licensing complaint, if proven, may result in a sanction such as reprimand, or suspension or revocation of my professional license.”
- Regulations section 3.5.4 (d) states that each healthcare facility is responsible for reporting to the Department:
  - The number (but not names) of healthcare workers who are eligible for influenza vaccination;
  - The number (but not names) of healthcare workers who received influenza vaccination; and
  - The number (but not names) of healthcare workers who decline annual influenza vaccination for medical or personal reasons, reported by each of the two (2) categories.

Reporting shall occur according to procedures and format required by the Department of Health. Specifics about those procedures and format shall be sent to health care facilities in the coming weeks.

- The regulations apply only to healthcare workers in a healthcare facility in Rhode Island (see regulation sections 1.6 and 2.1). Private practices and assisted living centers are not healthcare facilities. Unvaccinated doctors with privileges at healthcare facilities must wear a mask at the facilities during direct patient contact during the widespread influenza period, even though they need not wear a mask at their private offices.
- A surgical face mask must be worn by unvaccinated healthcare workers even if they have filed a medical exemption certificate or a refusal form with their employer. Filing a medical exemption certificate or refusal form is the only vehicle that may exempt healthcare workers from obtaining an influenza vaccination; but the medical exemption

certificate or refusal form does not exempt such workers from wearing a surgical face mask during direct patient contact during a declaration of widespread influenza.

- Medical exemption certificates should not be sent to the Department of Health. The health care facility must keep the medical exemption certificates in the healthcare worker's file.
- Unvaccinated licensed healthcare workers who violate the masking requirement during the widespread influenza declaration period are subject to a \$100 fine per violation and disciplinary action. The \$100 fine is not payable to the facility. It will be levied only after a complaint is filed with HEALTH, investigated, referred to the appropriate licensing board, and after an opportunity for a hearing. If the fine is levied, it will be payable to the General Treasurer.
- When unvaccinated EMTs employed by a private ambulance service enter a healthcare facility, they must wear a mask during direct patient contact (during a widespread influenza period, see sections 1.6, 5.3 and 5.4), but nothing in the regulation indicates the wearing of the mask must be continuous or outside of a facility. Regulations do not permit a facility to stop an unmasked and unvaccinated EMT from entering it.
- If you are an unvaccinated healthcare worker in one of the following types of healthcare facilities, this new regulation about surgical face masks applies to you: hospital, nursing home, home nursing agency, rehab center, kidney treatment center, HMO, hospice, freestanding emergency facility, and some ambulatory surgical centers.
- The term "healthcare worker" includes any person who is temporarily or permanently employed by (or at) – or who is a volunteer in – or who has an employment contract with – a healthcare facility, as defined in the previous paragraph. This includes physicians (while working at such a facility, but not in their private offices), physician assistants, nurses, CNAs, therapists (psychotherapist, occupational, physical, speech), technicians, clinicians, behavior analysts, social workers, EMTs (while at a facility), dental personnel, pharmacists, lab personnel, students, trainees, those with privileges at a facility, and staff who have patient contact such as clerical, dietary, housekeeping, laundry, security, maintenance, administrative, and billing.