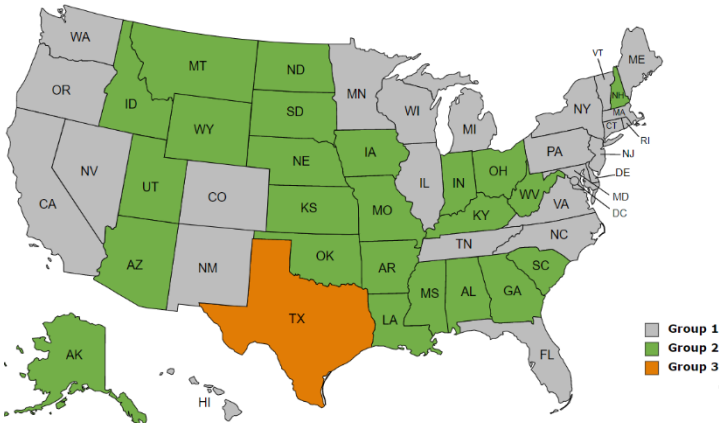


On **January 26 and 27, 2022**, AAAHC delivered client webinars titled *Immediate Implementation – CMS COVID-19 Vaccination Tracking*. These webinars addressed the new CMS interim final rule that introduced new standard (c) COVID-19 vaccination of staff under the Condition for Coverage at 416.51, Infection Control and the implications for Medicare Deemed Status ASC accreditation and compliance. To access a recording of the webinar and the *AAAHC COVID-19 Health Care Staff Vaccination Worksheet* visit the [AAAHC website](https://www.aaahc.org). Below are responses to questions submitted during the webinar.

Question	Answer																									
<i>Requirements Applicability</i>																										
1. Does this new CMS rule apply to facilities seeking AAAHC non-Medicare Deemed Status accreditation? 2. What about a purely cosmetic surgery center that does not accept insurance or Medicare/Medicaid? 3. What about an Endoscopy Center (ASC) and gastroenterology practice housed in the same building; does the practice need to abide by the same mandate?	<p>AAAHC will apply these requirements to Medicare Deemed Status (MDS) to initial, reaccreditation and intracycle surveys (i.e., Interim, discretionary/compliant).</p> <p>All organizations are expected to demonstrate compliance with state and federal requirements. Given the evolving nature of the pandemic, regulations are continuously changing. Organizations should continuously monitor state and federal requirements for changes.</p> <p>If an ASC is not certified under the Medicare and Medicaid programs and therefore not regulated by the CMS Conditions for Coverage requirements (CfCs), then the organization should be familiar and comply with OSHA COVID-19 Healthcare Emergency Temporary Standards.</p>																									
4. When do these new requirements go into effect for each group of states?	<p>These new requirements are effective based on the groupings (Gp) listed below.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th style="background-color: #d9ead3;">Threshold</th> <th style="background-color: #d9ead3;">Gp 1</th> <th style="background-color: #d9ead3;">Gp 2</th> <th style="background-color: #d9ead3;">Gp 3</th> </tr> </thead> <tbody> <tr> <td style="background-color: #d9ead3;">Date Issued</td> <td style="background-color: #d9ead3;">NA</td> <td style="background-color: #d9ead3;">Dec 28</td> <td style="background-color: #d9ead3;">Jan 14</td> <td style="background-color: #d9ead3;">Jan 20</td> </tr> <tr> <td style="background-color: #d9ead3;">30 Days</td> <td style="background-color: #d9ead3;">80%</td> <td style="background-color: #d9ead3;">Jan 27</td> <td style="background-color: #d9ead3;">Feb 14</td> <td style="background-color: #d9ead3;">Feb 22</td> </tr> <tr> <td style="background-color: #d9ead3;">60 Days</td> <td style="background-color: #d9ead3;">90%</td> <td style="background-color: #d9ead3;">Feb 28</td> <td style="background-color: #d9ead3;">Mar 15</td> <td style="background-color: #d9ead3;">Mar 21</td> </tr> <tr> <td style="background-color: #d9ead3;">90 Days</td> <td style="background-color: #d9ead3;">100%</td> <td style="background-color: #d9ead3;">Mar 28</td> <td style="background-color: #d9ead3;">Apr 15</td> <td style="background-color: #d9ead3;">Apr 21</td> </tr> </tbody> </table> <div style="text-align: center; margin-top: 20px;">  <p style="font-size: small; margin-top: 10px;"> Group 1 Group 2 Group 3 </p> </div>		Threshold	Gp 1	Gp 2	Gp 3	Date Issued	NA	Dec 28	Jan 14	Jan 20	30 Days	80%	Jan 27	Feb 14	Feb 22	60 Days	90%	Feb 28	Mar 15	Mar 21	90 Days	100%	Mar 28	Apr 15	Apr 21
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Question	Answer
<p>5. If we were re-accredited prior to CMS effective dates, are we required to submit proof of compliance, or does this apply to our next survey?</p>	<p>All facilities under the Medicare Deemed Status program are expected to be in compliance with these new regulations.</p> <p>The AAAHC Surveyor will look for demonstrated compliance aligned with these new requirements at your next onsite survey.</p>
<p><i>Vaccination Rate Calculation & Evidence</i></p>	
<p>6. What is considered fully vaccinated and does it include boosters?</p> <p>7. Does “unvaccinated” only include personnel in the process of completing vaccination series?</p>	<p>For purposes of this regulation, CMS currently considers staff fully vaccinated if it has been two weeks or more since the completion of a primary vaccination series for COVID-19. However, staff who have completed the primary series for the vaccine received by the Phase 2 implementation date are considered to have met these requirements, even if they have not yet completed the 14-day waiting period required for full vaccination.</p> <p>Completion of a primary vaccination series for COVID-19 is defined in the rule as the administration of a single-dose vaccine (e.g., the Janssen [Johnson & Johnson] COVID-19 Vaccine), or the administration of all required doses of a multi-dose vaccine (e.g., the Pfizer-BioNTech COVID-19 Vaccine [interchangeable with the licensed Comirnaty Vaccine] or the Moderna COVID-19 Vaccine).</p> <p>Because the science and clinical recommendations around additional doses and boosters is evolving rapidly, we refer individuals to CDC’s Interim Clinical Considerations for <i>Use of COVID-19 Vaccines Currently Approved or Authorized in the United States</i> for additional details.</p> <p>Unvaccinated refers to a person who does not fit the definition of “fully vaccinated,” including people whose vaccination status is not known.</p>
<p>8. What is included in the vaccination rate calculation?</p>	<p>Calculation of the vaccination rate includes staff who have completed their primary vaccination series, which means a single dose vaccine, or all doses of a multiple dose vaccine series, or have been granted an exemption, or a temporary delay. Boosters are not included in the regulation at this time.</p>

Question	Answer
<p>9. Which facility staff are included in the vaccination calculation?</p>	<p>Consider the following points when determining for which staff these requirements apply:</p> <ul style="list-style-type: none"> • Does the person provide direct patient care or interact with patients or persons that provide direct patient care? • Examples: Employed, per diem, credentialed and contracted staff such as anesthesia, providers, nurses, roll in-roll off laser professionals, reception/administration staff, pharmacy, housekeeping and EMS. • At this time, CMS has indicated that if the EMS provider has an agreement with an ASC that has CMS certification, then the EMS provider is indirectly included and therefore, the EMS service provider is required to comply with the rule. The ASC will be required to maintain records to demonstrate compliance and ensure vaccination/exemption status. • All hospital-employed physicians working in the ASC must maintain their vaccinations records in the ASC, consistent with credentialing requirements. <p>When determining which staff DOES NOT apply consider the following:</p> <ul style="list-style-type: none"> • The individual’s interaction does not include contact with patients or staff (e.g., FedEx or USPS personnel). • The activity occurs outside ASC hours of operation when the center is not staffed. <p>Examples: Janitorial service and building maintenance provided outside ASC hours of operation.</p>
<p>10. What documentation is required to track vaccination status?</p> <p>11. If the electronic report only records the date of the last dose given and whether it was a single, multi-dose (2nd shot for MRNA), or booster, is this sufficient documentation?</p>	<p>The National Healthcare Safety Network (NHSN) through the CDC has a web page dedicated to COVID-19 vaccination tracking. We recommend that you review the website modules and FAQs and utilize the provided templates for tracking.</p> <p>Consistent with the AAAHC current survey process for verifying compliance with TB and Hep B requirements, ASCs are required to demonstrate evidence of vaccination status.</p> <p>Documentation should include evidence that staff are fully vaccinated with the date of all doses given and whether it was a multi-dose (2nd shot for MRNA) or single. The focus of this requirement is on compliance with being fully vaccinated. Boosters are not included in the regulation at this time.</p> <p>During the onsite survey, for each ASC staff member in the sample identified as <u>vaccinated</u>, Surveyors will review ASC records to verify vaccination status. Examples of acceptable forms of proof of vaccination include:</p> <ul style="list-style-type: none"> • CDC COVID-19 vaccination record card (or a legible photo of the card) • Documentation of vaccination from a health care provider or electronic health record • State immunization information system record.

Question	Answer
<i>Exemptions, Delays & Testing</i>	
12. What constitutes a religious exemption?	Requests for non-medical exemptions, such as a religious exemption in accordance with Title VII, must be documented and evaluated in accordance with each ASC’s policies and procedures. Reference the Equal Employment Opportunity Commission (EEOC) Compliance Manual on Religious Discrimination for information on evaluating and responding to such requests.
13. Is there a standardized form for documenting exemptions? 14. Are previous religious and/or medical exemptions still valid?	Several states have templates available through county/state health departments. For example, Florida: <ul style="list-style-type: none"> • Medical Exemption from COVID-19 Vaccination • Religious Exemption from COVID-19 Vaccination • Exemption from COVID-19 Vaccination Based on COVID-19 Immunity • Exemption from COVID-19 Vaccination Based on Periodic Testing • Exemption from COVID-19 Vaccination Based on Employer-Provided Personal Protective Equipment <p>Note: Exemptions must be specific to the COVID-19 Vaccination.</p>
15. What is an example of a Temporary Delay for staff?	Temporary Delay examples include staff who are in the waiting period before receiving a second dose of a two dose vaccination series, and staff recently infected with COVID-19. For staff whose vaccination has been temporarily delayed, documentation must include: <ul style="list-style-type: none"> • Reason for delaying COVID-19 vaccination • How long the delay is expected • A plan for vaccination when the delay is over
16. For employees who are unvaccinated and have been granted exemptions, is there a requirement for COVID-19 testing as part of the accommodation?	No, the new CMS regulation requires staff vaccination only and does NOT include a testing mandate. While CMS considered requiring daily or weekly testing of unvaccinated individuals, scientific evidence on testing found that vaccination is a more effective infection control measure. CMS will continue to review the evidence and stakeholder feedback on this issue. ASCs may voluntarily utilize testing alongside other infection prevention measures, such as physical distancing and source control. Additionally, CMS encourages facilities not covered under this regulation to review the OSHA COVID-19 Healthcare Emergency Temporary Standards for separate vaccination and testing requirements.

Question	Answer
<p>17. Are we required to test our staff for COVID-19 and, if so, can we charge the employee for the test?</p>	<p>The CDC states that health care providers (HCP) with even mild symptoms of COVID-19 should be prioritized for viral testing with nucleic acid or antigen detection assays; ensure that SARS-CoV-2 testing is performed with a test that is capable of detecting external icon SARS-CoV-2 even with currently circulating variants in the United States. Refer to Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2 and Self-Testing.</p> <p>OSHA Emergency Temporary Standards (ETS) advocates protecting unvaccinated employees through weekly testing, to minimize workplace exposure to COVID-19.</p> <p>The ETS does not require employers to pay for any costs associated with testing. However, employer payment for testing may be required by other laws, regulations, or collective bargaining agreements or other collectively negotiated agreements. In addition, nothing prohibits employers from voluntarily assuming the costs associated with testing.</p>
<p>18. When does an organization require a Contingency Plan?</p> <p>19. If an employee declines the vaccine and does not have an exemption, may the employee be retained until another staff member has been hired and precautions are taken to mitigate any spread of COVID-19?</p> <p>20. Do ASCs ever qualify for Contingency return to work criteria?</p>	<p>ASCs must develop a contingency plan for staff who have not completed the primary vaccination series for COVID-19.</p> <p>Contingency plans should include:</p> <ul style="list-style-type: none"> • Actions the ASC will take when staff have indicated they will not get vaccinated or decline to be vaccinated and do not qualify for an exemption. • Actions the ASC will take for staff who are not fully vaccinated due to an exemption or temporary delay. • Prioritization for staff that have obtained no doses of vaccine over staff who have received a single dose of a multi-dose vaccine. For example, contingency plans could include a deadline for staff to have obtained their first dose of a multiple-dose vaccine. • Actions the ASC will take if deadlines to receive vaccination are not met, such as actively seeking replacement staff through advertising or obtaining temporary vaccinated staff until permanent vaccinated replacements can be found. <p>On January 21, the CDC updated guidelines on Return to Work Criteria for HCP Who Were Exposed to Individuals with Confirmed SARS-CoV-2 Infection.</p> <p>Also refer to CDC guidelines on Strategies to Mitigate Healthcare Personnel Staffing Shortages.</p> <p>OSHA has published tools and templates to support healthcare organizations with policy development, contingency planning, and mitigation efforts. These resources include flowcharts, notification tools, worksite checklists, and job hazard analysis.</p>

Question	Answer
<p>21. Does the rule allow for any unvaccinated staff who do not have a documented medical or religious exemption to perform onsite patient care?</p>	<p>No. The condition states: 416.51(c) The ASC must develop and implement policies and procedures to ensure that all staff are fully vaccinated for COVID-19.</p> <p>The policies include a process for exemptions, tracking, additional precautions, and contingency plans.</p>
<p>22. How is source control defined?</p> <p>23. May an exempt staff member provide patient care if they are wearing the appropriate source control?</p> <p>24. Do all team members in my facility need to wear an N95 or KN95?</p> <p>25. Can N95 masks be mandated in a facility without being fit tested?</p>	<p>Source control is defined by the CDC as: Use of respirators, well-fitting facemasks, or well-fitting cloth masks to cover a person’s mouth and nose to prevent spread of respiratory secretions when they are breathing, talking, sneezing, or coughing. Source control devices should not be placed on children under age 2, anyone who cannot wear one safely, such as someone who has a disability or an underlying medical condition that precludes wearing one safely, or anyone who is unconscious, incapacitated, or otherwise unable to remove their source control device without assistance. Face shields alone are not recommended for source control. ASCs may also consult with their local health department for other actions to reduce transmission.</p> <p>According to the CDC masks and respirators are effective at reducing transmission of SARS-CoV-2, the virus that causes COVID-19, when worn consistently and correctly.</p> <p>NIOSH and OSHA have developed a video and factsheetpdf demonstrating how to determine if the respirator fits properly (user seal check) and how to properly put on and take off a respirator. Always refer to the manufacturer instructions for information on how to wear, store, and clean or properly dispose of respirators</p> <p>The mini respiratory protection program (29 CFR 1910.504) is one part of the OSHA COVID-19 Healthcare Emergency Temporary Standard (ETS).</p> <p>Additionally, OSHA released a Respiratory Protection Standard fact sheet to help employers understand and comply with OSHA’s temporary enforcement guidance for the Respiratory Protection standard (29 CFR § 1910.134).</p> <p><i>Note: AAAHC evaluates organizations’ compliance with the Standards according to their own policies and procedures, which should be aligned with best practices.</i></p>

Question	Answer
<p>26. What mitigation efforts should be taken for unvaccinated staff?</p>	<p>According to CMS, there are a variety of actions or job modifications a facility can implement to potentially reduce the risk of COVID-19 transmission including:</p> <ul style="list-style-type: none"> • Reassigning staff who have not completed their primary vaccination series to non-patient care areas, to duties that can be performed remotely (i.e., telework), or to duties which limit exposure to those most at risk (e.g., assign to patients who are not immunocompromised or unvaccinated). • Requiring staff who have not completed their primary vaccination series to follow additional CDC-recommended precautions such as adhering to universal source control and physical distancing measures in areas that are restricted from patient access (e.g., staff meeting rooms, kitchen), even if the facility or service site is in a county with low to moderate community transmission. • Requiring at least weekly testing for exempted staff and staff who have not completed their primary vaccination series, until the regulatory requirement is met, regardless of whether the facility or service site is in a county with low to moderate community transmission, in addition to following CDC recommendations for testing unvaccinated staff in facilities located in counties with substantial to high community transmission. • Requiring staff who have not completed their primary vaccination series to use a NIOSH-approved N95 or equivalent or higher-level respirator for source control, regardless of whether they are providing direct care to or otherwise interacting with patients <p>ASCs may also consult with their local health departments to identify other actions that can potentially reduce the risk of COVID-19 transmission from unvaccinated staff.</p> <p><i>Note: AAAHC evaluates organizations' compliance with the Standards according to their own policies and procedures, which should be aligned with best practices.</i></p>
Survey Process	
<p>27. When and how do we submit our staff data collection and Action Plans?</p> <p>28. In the webinar, we learned how to self-assess and create an Action Plan. If we are fully compliant, do we still need to create an Action Plan?</p>	<p>During the AAAHC webinars, tools and strategies were presented to help organizations self-assess and establish processes to meet the CMS requirement. These resources are not intended to be submitted to AAAHC; they are for your internal use only.</p> <p>The purpose of action plans is to drive action on areas of non-compliance. If you have self-identified as fully compliant, an action plan may not be necessary. ASCs do, however, need to demonstrate evidence of compliance including staff vaccination documentation and Policies & Procedures that explicitly address COVID-19 vaccination. See question 29 for further detail.</p>

Question	Answer
<p>29. Will the AAAHC survey process be longer to accommodate the new requirements?</p>	<p>No, as long as the facility is prepared with the information for Surveyor review, the survey process is not expected to be longer. The new requirements are aligned with the current process and organizations should ensure the following is available to the Surveyor during the survey Entrance Conference:</p> <ol style="list-style-type: none"> 1. Policies and procedures for COVID-19 vaccination of all eligible staff, including exemption and tracking process 2. A list of all persons that meet the definition of staff and their vaccination status: <ul style="list-style-type: none"> • Facility employees • Licensed practitioners • Students and trainees • Volunteers • Contracted staff <p>See example of list requirements from NHSN track-hcp-covidvax.xlsx (live.com)</p> <p>Additionally, page 169 of the AAAHC Accreditation Handbook for Medicare Deemed Status, v41 provides a comprehensive list of documents to help you be organized for the onsite survey.</p>

Question	Answer
<p>30. Please describe how Surveyors will survey the exemptions granted by an ASC.</p> <p>31. Would a Surveyor review a medical exemption file? If so, what elements would be checked?</p> <p>32. Will the Surveyor interview exempt staff about precautions taken?</p>	<p>During the onsite survey, for each staff member identified by the ASC as <u>unvaccinated</u>, Surveyors will select a sample and:</p> <ul style="list-style-type: none"> • Review ASC records. • Determine if the unvaccinated employee has received education regarding the COVID-19 vaccination and offered vaccination. • Interview staff and ask if they plan to get vaccinated, and if they declined to be vaccinated, do they have a medical contraindication or religious exemption. <ul style="list-style-type: none"> ○ Request and review documentation of the medical contraindication. ○ Request to see employee record of the staff education on the ASC policy and procedure regarding unvaccinated individuals. • Observe staff providing care to determine compliance with current standards of practice with infection control and prevention. <p>For each staff member identified by the ASC as <u>unvaccinated due to a medical contraindication</u>, Surveyors will select a sample, review, and verify that all required documentation is:</p> <ul style="list-style-type: none"> • Signed and dated by physician or advanced practice provider. • States the specific vaccine that is contraindicated and the recognized clinical reason for the contraindication with a statement recommending exemption. <p>Note: Surveyors will not evaluate the details of the request for a medical or religious exemption, nor the rationale for the ASC’s acceptance or denial of the request. Rather, Surveyors will review to ensure the ASC has an effective process for staff to request an exemption and documentation is complete.</p>
<i>Miscellaneous</i>	
<p>33. Is a staff attestation acceptable in lieu of a tracking log, if it indicates the employee will not come to work if COVID-19 symptoms are present?</p>	<p>No. AAAHC will survey MDS ASCs for compliance with the new CfC vaccination requirements – refer to detailed survey process above.</p> <p>Non-Medicare ASCs will be surveyed for compliance with state and federal requirements, and according to their own policies and procedures that should be aligned with best practices.</p> <p>Refer to OSHA standards and CDC guidelines as examples of best practice.</p>

Question	Answer
<p>34. Can you terminate a staff if they have an exemption for vaccination and you cannot reassign them?</p> <p>35. What if a staff member does not want to get vaccinated and does not meet the exemptions?</p> <p>36. Is it legally acceptable to only hire staff who are already vaccinated?</p>	<p>Refer to the EEOC FAQs, on “What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws.”</p>
<p>37. For NHSN reporting, is an organization considered compliant if all staff are vaccinated or have an approved exemption on file? Does this need to be reported to NHSN?</p> <p>38. For the CDC NHSN reporting, how far back should we go on weekly reporting?</p> <p>39. We currently do not submit quarterly data, is this a new requirement or do we provide the data at time of survey?</p>	<p>The new CMS regulation does not establish any new CMS data reporting requirements, nor does AAAHC require quarterly reporting. Refer to the National Healthcare Safety Network (NHSN) webpage for information on reporting.</p>
<p>40. What is the compliance requirement for boosters in California?</p>	<p>On December 22, 2021, the California Department of Public Health (“CDPH”) issued an order requiring workers in health care facilities to receive booster vaccinations to help combat COVID-19. Health care workers must receive the booster vaccine by February 1, 2022.</p> <p>The February 1, 2022 deadline was extended for workers if their recommended booster date falls after February 1. Those workers must receive the booster within 15 days after their recommended booster date.</p> <p>If you are in California, you will be required to demonstrate evidence of a booster on your staff vaccination tracking.</p>
<p>41. Florida AHCA has a mandated exemption based upon periodic testing. Please answer how this might factor into vaccination rates.</p> <p>42. If a facility is in CA or NJ, will the booster requirement be referenced for compliance over the CMS standard?</p> <p>43. In South Carolina, the governor has presented a bill that would make asking an employee his/her Covid-19 status against the law. What do we do about that?</p>	<p>According to CMS, Medicare Deemed Status programs are surveyed in accordance with <i>federal</i> laws and regulations. Therefore, AAAHC must survey in accordance with these requirements.</p> <p>All organizations are expected to be in compliance with state <u>and</u> federal requirements. Refer to state specific requirements that may apply to your organization.</p>