

Olivia Peterson ([00:00:01](#)):

All right. We are going to go ahead and get started. Hello again, everyone, and welcome. We are so happy to have you for this webinar today. We will be discussing the CMS Vaccine Mandate: Compliance Requirements and Operational Resources for Health Centers.

Olivia Peterson ([00:00:16](#)):

On behalf of the National Association of Community Health Centers, my name is Olivia Peterson, and I am a training and event program specialist here in the Training and Technical Assistance Division. I will be supporting this webinar as your technical host today, and I'm very pleased to bring you this event along with my colleagues, Vacheria Tutson, Director of Regulatory Affairs, and Brandon Jones, Director of Health Center Operations and HR. I will be turning things over to Vacheria and Brandon momentarily.

Olivia Peterson ([00:00:43](#)):

But before we dive into today's topic, I have a few quick housekeeping items to review with you all. First and foremost, please note that this meeting is being recorded. The recording will be made available to you all within the next few days via the Health Center Resource Clearinghouse, and we will email out a link once it becomes available. For a copy of the slides, please see the email that was sent out a little less than an hour ago from [trainings@nachc.org](mailto:trainings@nachc.org) if you would like a copy of the slides.

Olivia Peterson ([00:01:14](#)):

The duration of this webinar will be approximately 60 minutes. And then after the webinar, you will be directed to an evaluation for this event. We really value your feedback and encourage you to fill this out, as it informs our future events.

Olivia Peterson ([00:01:29](#)):

You will notice that all lines were automatically muted when you joined this call. If you have any issues with your audio, we recommend calling into the webinar, which you can do by going to the unmute button at the bottom of your screen and clicking the arrow next to it and selecting switch audio.

Olivia Peterson ([00:01:46](#)):

We were able to collect a number of questions at registration, so we thank you for submitting those questions. And I'm sure many more questions will come up during the webinar. Please feel free to share those questions and comments in the Q&A panel. It's going to be on the bottom right-hand side of your screen. And when you're submitting your question, make sure you are submitting to all panelists. This is going to help us ensure that we see your question so that we can direct it as appreciate. We will have some time towards the end of the webinar to address your questions, and we will get through as many of them as we can and follow up after the webinar for those that we can't get to.

Olivia Peterson ([00:02:23](#)):

And with that, that concludes our housekeeping, so I am going to go ahead and hand things over to my colleague, Vacheria Tutson, to get us started for today. Thank you so much.

Vacheria Tutson ([00:02:33](#)):

Thank you, Olivia. And hello, everybody. Good morning, good afternoon. Thank you for joining us today. I really just want to say at the top, on behalf of NACHC, we really appreciate you all joining. We

appreciate all the feedback we've been hearing, and we know that this is at the top of the list for all of our health centers. We really wanted to make sure that we pulled together resources to help you all through this, but also acknowledge that we know this is going to be a significant impact on health centers. We know that the vaccine mandate is something that a lot of health centers were looking for, but we know that it will have an impact on our workforce. We just want you to know, at NACHC, that we are thinking about this. We know that every employee has been on the frontlines the entire pandemic, working shoulder to shoulder, and really serving our patients in our community, and we want to keep that in mind as we think about how the implementation of this vaccine mandate will play out.

Vacheria Tutson ([00:03:30](#)):

Today, we are grateful to hear from two health center leaders who have already taken those steps on the vaccine mandate, and they can really share their lessons learned. The phrase that I've heard since I've been at NACHC is, "You visit one health center, and you visited one health center." We know that it is going to work out completely different at every health center, and you have your unique staff, and you know the best way to support them and work with them, but we hope that you take away from today's webinar some good tips and tricks of just how we can get over the finish line and make sure that we are complying with whatever CMS is going to be recommending. But also, we're keeping our workforce and supporting them, and supporting those people that have been like friends and family before the pandemic. We want to make sure that those relationships and those key staff are able to stay after the pandemic.

Vacheria Tutson ([00:04:19](#)):

I hope that you all learn a lot today. Please feel free to use the Q&A box and the chat box, and also never be shy to reach out via email after if you have more questions.

Vacheria Tutson ([00:04:31](#)):

With that being said, I'm going to just give an overview of the regulatory landscape. First question. Where is the vaccine mandate? I don't know. We know the Biden Administration announced early September, September 9th, that the agency would release the regulation in October. Well, October has come and passed. The regulation had been sitting at the Office of Management and Budget, which is where regulations go before they release, since October 8th. We were certain that the regulation would've been out today, and we would've had an overview for you all. However, it is November 1st at 12:05, and the regulation is nowhere to be found. We know that it is coming out today, as it has now disappeared from OMB's public inspection list, so we know the regulation is coming today.

Vacheria Tutson ([00:05:28](#)):

With that being said, the fact that they did not hit their deadline means that they might have been doing some revisions, and we hope that those revisions work in our favor. However, once the regulation comes out, we will provide an FAQ. We will provide information and host an additional webinar to go over the regulatory requirements. However, just wanted to put that out there. We know that we wanted to go over the regulation, but clearly, that means CMS needed some more time to dig into it or to make some revisions, because they heard from the health care community, and because I think this important workforce issue that is not just unique to health centers, but all facilities that receive Medicaid and Medicare funding, and we know that we really want to make sure that CMS understands the impact of what this vaccine mandate would do to the workforce. We hope that the regulation coming out today will reflect that feedback, and we'll be able to provide the flexibility that health

centers need to take the time to really get to whatever the requirement for employee vaccinations are going to be.

Vacheria Tutson ([00:06:32](#)):

I'm going to just give an overview, next slide, of how we got here with the Biden Administration. Let's go all the way back to, really, Biden's first... As soon as he took office in the middle of the pandemic, we know that he was going to prioritize the response, increasing vaccination rates, increasing testing, and really making it a priority to make sure that the health care profession had the resources they need to continue to serve communities.

Vacheria Tutson ([00:07:01](#)):

As the spring went along, I think vaccine rates were not as high as the Biden Administration would like to have seen, so they took extraordinary steps in May and issued a COVID-19 vaccination requirement for long-term care workers who serve Medicare and Medicaid enrollees. This vaccine mandate, when it was released in May, definitely caught people off guard, and I think the nursing home community felt like they were being singled out by the Biden Administration, even though this was common for all health care providers to be interacting in close communities and close quarters and having the possibility of spreading the COVID-19 disease.

Vacheria Tutson ([00:07:47](#)):

From this time in May, it took until about September for this long-term care facility mandate to be released. As it has been released, we have seen slowly, in the nursing home community, vaccination rates going up, but what I find that's interesting about that specific rule is it does not necessarily have a timeline on it. But it does require nursing home facilities to also educate their patients, staff, and also their families on the COVID-19 vaccine, and then also to provide that vaccine. Nursing homes have a different type of reporting requirement, so this COVID-19 vaccine has been incorporated into existing immunization reporting requirements. However, I think it's interesting that they took an approach where they did that, hit a hard deadline, but something that's supposed to be progressive enforcement. That was the first vaccine mandate that came out earlier this year in May.

Vacheria Tutson ([00:08:46](#)):

Then, in June, the administration released the OSHA Emergency Temporary Standard for health care workers. As many of you are probably familiar with the OSHA ETS, we know that it was very broad and sweeping. We know that it does apply to health centers, because we provide COVID-19 testing. The way that the OSHA ETS viewed health care workers is that, because of the way that the virus is transmitted, even if you're performing services outside your health center, like in a parking lot, or inside the health center, providing those services in general makes health centers fall under the OSHA ETS. We know that health centers are providing testing, and testing is a way that you are interacting with a person who might have suspected COVID-19.

Vacheria Tutson ([00:09:37](#)):

And we also know that there are different requirements under the OSHA ETS to protect the employees, making sure they have time off to go get a vaccination, time off to recover from the vaccination. Also, if the employer requires weekly testing, the employer has to cover that. And then also, we know that there's the medical removal benefits for employees to make sure that, if they are removed from the workplace because of a positive COVID-19 test, that the employer has to pay them for a certain amount

of time and provide that PTO. We are still working through the OSHA ETS. That is still something that governs health care workers in the meantime.

Vacheria Tutson ([00:10:19](#)):

As we move towards September, that is when the Biden Administration announced their mandate for federal employees and federal contractors. The federal employees and the federal contractors do not have a testing exemption. And I'll be very clear to know that the federal contractor one specifically does not have a testing exemption. The deadline for compliance for that, it was issued September 24th, and the compliance for federal contractors is December 8th. And I'm going to get into this a little bit later, but health centers do not fall under the federal contractor mandate, because we are grantees, and the executive order that directed the agency to release this mandate specifically said that grants are not included as federal contractors.

Vacheria Tutson ([00:11:08](#)):

But additionally, in September, also, we know that Biden announced his COVID-19 action plan, and this is where he announced that any CMS facility needs to issue a COVID-19 vaccine mandate. And then there was the announcement of an additional OSHA Emergency Temporary Standard for employers that have more than 100 employees. Under the Biden COVID-19 action plan, it's very clear that the administration felt that they needed to have a stronger hand in encouraging Americans to get vaccinated. They also see that the public health workforce is a prime way to do that and to build confidence in the vaccine.

Vacheria Tutson ([00:11:52](#)):

When you read articles about why did the Biden Administration take this approach, they really felt like this was the only option. They felt like they have done as many campaigns, poured in funding, worked with community organizations, and vaccine rates were still not where they wanted it to be, especially while we were battling, or still are battling, the Delta variant. Even the Administrator Chiquita Brooks-LaSure said in an interview, "I know this will have an impact on the workforce, and I know the implications. However, we feel like this is our last option to be able to get America where they need to be, to be in a safer place." And they recognize that this is having a political issue. However, this is about public health, it's about serving patients, and it's about keep people safe. That's the Biden Administration's plan. The COVID-19 action plan also discussed how they were going to support schools, how they're going to support uninsured people, making sure they're able to get vaccinated and tested, so it was a multi-pronged plan.

Vacheria Tutson ([00:12:55](#)):

Here we are now. We know that the CMS vaccine mandate is supposed to be an expansion of the long-term care rule. There are maybe some aspects in that regulation that will be tied to the overall CMS facility vaccine mandate. We just have to watch and see.

Vacheria Tutson ([00:13:14](#)):

Additionally, for the OSHA ETS, it applies to employers with over 100 employees. We know that they have a testing exemption, and we know that some health centers might fall under both buckets. You're definitely going to fall under the CMS vaccine mandate, but if you're a larger health center, say, you will also fall under the OSHA ETS standard that applies to employers with over 100 employees. We will have to wait for the regulatory text to see how that overlap will work. You could say that the government will

probably defer to the most stringent regulation, as in you will not be able to do testing, because you fall under the OSHA ETS. You will have to move forward on having 100% vaccination rate. That's probably the way the government will approach it.

Vacheria Tutson ([00:14:02](#)):

We are waiting for these two regulations. We will definitely make sure we provide a crosswalk between the two to let you know, what are the overlapping areas, how can I comply with both? And that will be more to come in the next webinar that we host once the regulations are released. We will definitely be able to walk you through and provide that information. But I just wanted to give an overview of the steps that Biden has taken throughout the year and how we got here to the vaccine mandate, and just the Biden Administration's priorities. Next slide.

Vacheria Tutson ([00:14:35](#)):

What do we know? We know that there are several health centers that have already taken steps to implement their own vaccine mandates. We know that health centers are allowed to implement vaccine mandates, as long as they accommodate any exemptions an employee may be entitled to, like a religious or medical exemption. The EEOC released updated guidance just last week to assist employers with assessing religious accommodations for the COVID-19 vaccine. Specifically, there're several FAQs that have been updated about, how do you object to a religious accommodation? What is the employer's requirement or vows of how they can ask more questions to understand that religious accommodation? And definitely just breaking it down for the context of the COVID-19 vaccine. That guidance is also included on the resource that Brandon will speak about later today.

Vacheria Tutson ([00:15:37](#)):

We also know that health centers can require proof of COVID-19 vaccination status, subject to state laws, which means, unless your state has specific regulations around not requiring or prohibiting an employer for asking for immunization records, that a health center can ask that. Some people have heard just a little misinformation that there's a HIPAA prohibition of you asking someone's COVID-19 vaccine status, and that is not applicable to the employee and employer relationship.

Vacheria Tutson ([00:16:11](#)):

Like I said, the federal contractor. COVID-19 vaccine mandate does not apply to federal grantees, unless you share common space with a federal contractor. Unless you share office space or lease space with someone who is a federal contractor, that would be the only way that your health center would fall under that guidance.

Vacheria Tutson ([00:16:32](#)):

And then lastly, when it comes to the OSHA Emergency Temporary Standard that will apply to all employers with over 100 employees, there's just the outstanding question of, who pays for that testing? As a lot of people have been saying they hope that the CMS vaccine mandate has a testing option, the outstanding question for anything in that realm is, who pays for that? Is it the employer? Is it the employee? Is it the government? That's really an outstanding question for the broader employer community, but definitely, if we are looking for that, we will need clarity on who picks up that bill, as we know that a lot of health insurance companies right now are limiting the amount of tests in a certain timeframe that their insurance will cover. We know that that could also be a barrier if there is a testing requirement, in knowing who picks up that bill specifically. Next slide.

Vacheria Tutson ([00:17:34](#)):

Right now, this is the current landscape of states that have pursued state legislation in regards to vaccines. The green states are states that have mandated the COVID-19 vaccine for probably state employees or health care workforce, and the purple states are where they have banned COVID-19 vaccine mandates. This is a very interesting perspective, as it's split down the middle of states that have taken a proactive approach to vaccine mandates and mandated it for their either state employees or health care providers, and then states that are trying to combat the Biden Administration's efforts and trying to use all their state authority to block the federal mandate. Next slide.

Vacheria Tutson ([00:18:24](#)):

I just wanted to give a little bit of insight into how the state law interacts with the various federal mandates. Under section 1905(a)(2) of the Social Security Act, it specifies that state Medicaid programs must cover FQHC services and any other ambulatory service offered by FQHC, which is otherwise included in the state Medicaid plan. This means that a county, a local government, a city, cannot end their contract with the FQHC because of the CMS vaccine mandate, because under the law, FQHCs have to partner and contract with Medicaid. I know there has been some health centers that have had this type of conversation or threat from a local government saying that they will end their Medicaid contract, but under the statute, that cannot happen. Just know, if that is happening to you, please reach out to me, but also know that, under the law, that is not an option for a state Medicaid agency to end a contract with the FQHC. Also, just general precedent is that federal mandates can trump, and most likely do trump, state law. Even if your state is issuing mandates, once these certain mandates come down from the federal government, then that state mandate probably will be moot, because federal law trumps state law.

Vacheria Tutson ([00:19:56](#)):

And then just in general, there's about 30 court cases around vaccine mandates right now. Well, there's about 60 in total, but about 30 have refused to overturn vaccine mandates. I just say that to say that the courts are really favorable right now to vaccine mandates and upholding them in the interest of public health. And also, the only two vaccine mandates that have been overturned are ones that did not have a religious or medical exemption. I think that's just to say that the case law is also supporting public health and upholding vaccine mandates, so it might be a contentious front right now, but I think, in the long haul, the vaccine mandates will be able to stand.

Vacheria Tutson ([00:20:38](#)):

I hope this just gives an overview of the regulatory landscape, the state landscape, where we are now, and what we know. Please feel free to put any questions in the Q&A box, as I will go through and answer it. But I am not excited to turn it over to our new two guest presenters. We have Rhonda Hauff, and we also have Wendy Stark. They are going to give insight into the journey at their health centers, of navigating a vaccine mandate, the different lessons learned they have, and then also any advice. I will turn it over to Rhonda first. Thank you so much for joining us today.

Rhonda Hauff ([00:21:19](#)):

Well, thank you, Vacheria. I'm in one of those green states that does have a vaccine mandate. Our community health center was actually about a month ahead of our governor on this particular issue. If you don't know where Yakima is, we're in central Washington state. We're a heavily agricultural community. Throughout the surge of the pandemic, more than two-thirds of the workforce in our valley

were considered essential. What that means is that very few people stayed home from work during the pandemic, and that includes our staff. As a community health center, we continued to have everyone coming to work, because our patients really never stopped coming to us. We made telehealth available, like many community health centers, but it just wasn't a solution for our patients.

Rhonda Hauff ([00:22:06](#)):

And for our own staff, many didn't have the option of setting up a HIPAA-compliant home office in their home, so, in some ways, we saw this as a bit of a social justice issue and a fairness issue among our staff. We invested a lot of our CARES dollars in PPE and other infection control protections. Plexiglass barriers and shields, transportation, driver barriers for our outreach teams. Even long before the Delta variant came to Yakima, we were the hotspot of the West Coast for a very long time. Next slide, please.

Rhonda Hauff ([00:22:45](#)):

And as of July, 86% of our positive COVIDs in our community were due to the Delta variant. More contagious than the original strain, we were really concerned about how rapidly this virus was spreading in our community. And we felt that it was so important to protect our patients, especially our most vulnerable patients, our staff, and their families when they go home at the end of each day. When we heard that the Delta variant was as transmissible as the chicken pox, we realized that we had to take action. Our staff was layered in PPE already, but we knew that this wasn't enough. Social distancing meant 20 feet instead of six feet, and we saw this as a game-changer. We talked a lot with our board, and we talked with our leadership team, and we felt that this was the right thing to do, even though no one else in our community had done it. We knew, at the state level, there were conversations, but we really felt that we didn't have time to wait for anyone else.

Rhonda Hauff ([00:23:43](#)):

In July, as of 310 employees, we have 10 sites, 310 employees, we looked at our immunization records, and we have... These are the standards of our employee health program. All of our employees were fully immunized against MMR, varicella, and TDAP, and we didn't have any declinations among our standard employee health requirements. And at this point in the COVID vaccine program, we had 75% of our employees already fully vaccinated. We were also one of the first 250 community health centers to receive vaccine from HRSA, so we had all three products available, Pfizer, Moderna, J&J. We were going throughout our rural communities with our mobile units, and we were very engaged and supportive and promoting. Next slide, please.

Rhonda Hauff ([00:24:36](#)):

75% is a respectable rate of vaccinations, but then when we disaggregated the groups by departments, what we saw was that our least-vaccinated groups were our most vulnerable groups, specifically our medical support teams, our care coordinators, and our outreach teams. And I wouldn't be surprised if this doesn't look familiar to many of you. Many of these staff are the same people that we were sending out into the community to provide those screenings and testing, and now our vaccinations. They go out in parking lots, they go to shelters, they go out into the streets, they go into our supportive housing programs, and we were very concerned about their exposure for themselves, as well as to the vulnerable folks that they were serving. Next slide, please.

Rhonda Hauff ([00:25:31](#)):

We took this to our board, and it was passed in our late July board meeting to be effective September 1st. We were the first health care facility in our county, and the policy was that employees not in compliance would be suspended without pay for 15 days as of September 1st, so that meant employees not in compliance by September 15th would be terminated. And we did not allow testing as an option as part of our policy. Subsequently, our governor's proclamation then was announced just a few weeks later to go into effect October 18th.

Rhonda Hauff ([00:26:13](#)):

We developed forms for each request, both for medical exemptions and religious exemptions, with the help of our employment attorneys. We wanted to develop an objective process that was fair to the unvaccinated employees, and also to those that were vaccinated, and our patients. And the forms also included an interactive process where, after they completed the forms, then we would sit down with them to make sure that we had gathered all of the information.

Rhonda Hauff ([00:26:42](#)):

We formed an ethics committee. Typically, that included myself, the CEO, our human resources director, and then another member of the management team. Sometimes, we also included a board member. The role of the ethics committee was to review the form with the employee to make sure that we captured all of the expressions and beliefs that that particular person had. Not everyone can write as effectively as others, and so our job was to fill in the picture. And then the forms then... From there, we reviewed the information, and we typically included a member from our legal team to reach a decision.

Rhonda Hauff ([00:27:18](#)):

The common issues, not a lot different than what we've heard in the community, in our community once the governor's mandate happened, was some people didn't believe in vaccines, but yet, they've received vaccines here as employees before. They were crossing over between personal beliefs and religious beliefs. Employers or government shouldn't require vaccines were some of the ideas that we heard. And then several challenged how the vaccines were produced. We offered articles on other vaccines and several medications that are required if the employee had taken or used. There's a lot of articles out there now about a lot of common medications that are produced through fetal cell lines. That was a lot of discussions. In the end, we had one temporary medical exemption, and we did not allow any religious exemptions. Next slide, please.

Rhonda Hauff ([00:28:19](#)):

This chart basically shows the progress from mid-July right before the policy went into effect. As of September 1st, we had suspended 19 employees, and during the next 15 days, 10 of them actually completed their vaccines. Nine chose to leave, so that's 2.5% of our staff that had left us. We were pretty nervous early on, but 2.5%, we actually felt really good about that. In Washington state, the government employee mandate went into effect just a couple weeks ago, and the last I saw was that attrition rate was 3%. They were anticipating as high as 15% overall, but it was 3% in Washington state, is the latest number I saw.

Rhonda Hauff ([00:29:11](#)):

Going forward, fully vaccinated for new staff includes the two-week period after the second shot or two weeks after the Johnson & Johnson. If or when the CDC or Department of Health changes their guidelines to include the booster as fully vaccinated, we'll comply with that. I should say part of our

policy that we sent out to the staff included the CDC medical exemption guidelines, so they knew, if they were requesting a medical exemption, it would need to comply with the CDC. We had very few. I think we only had one request, and that one was temporarily approved. Our policy was supported by the vast majority of the staff. In fact, the comment I heard was, "What took you so long?" And patients also believe that this is in the best interest of our patients, our staff, and ultimately, our community. Happy to answer questions when we get through with this. Thank you very much.

Wendy Stark ([00:30:14](#)):

Hi. I'm Wendy Stark. I'm the Executive Director at Callen-Lorde Community Health Center. We are a health center network in New York City. Our service area is the city at large, and we have four clinical sites. We are also in a green state, as Rhonda is, a state with a vaccine mandate that went into effect on October 7th of this year.

Wendy Stark ([00:30:37](#)):

Prior to the state-level vaccine mandate, we were taking a very hands-off approach, if you will, to collecting vaccination information from our staff, to requiring vaccination, although we were trying to deeply encourage vaccination. We did a number of different things, such as hold lunch-and-learns for staff with different members of our clinical teams, providing information, and sitting and talking with people about their concerns, to one-on-one meetings with staff who wanted to be able to ask questions of a particular type of clinician.

Wendy Stark ([00:31:17](#)):

We, from the beginning of the COVID pandemic, had put into place a very specific occupational health team to answer questions and to respond when staff members were testing positive for COVID or had family members with positive COVID tests, or whatever the case may be. That team also continued to have one-on-one conversations or small group conversations throughout the time since the vaccines were made available to try to help people make those decisions. We were operating from a place of really not wanting to stigmatize our staff who had concerns about vaccines, for whatever the reason, and Rhonda named a number of reasons. And I think, like we've all heard, the same reasons existed within our own staff as to why vaccine hesitancy might be present for them.

Wendy Stark ([00:32:15](#)):

When we first heard about the state vaccine mandate, first we made sure that our leadership team really understood all of the language of the mandate. Here in New York state, our mandate did not have a testing option, we did not have a religious exemption option, we had a very specifically rendered medical exemption option, so it was a near-universal mandate for vaccination.

Wendy Stark ([00:32:47](#)):

Now, just as a note here, we also have some city-level funding contracts. There were separate and different New York City requirements for city-level contractors, so we had to comply, actually, with those mandates first. As we all are constantly battling with what may be at times conflicting regulations between our cities or localities and our states and the federal government, again, having your management team be very aware of which level of government regulation applied to which scenario and which took precedence or needed to be followed above the others, right?

Wendy Stark ([00:33:33](#)):

Making sure that we had that information well understood, our state Primary Care Association held a conference with the legal counsel of the PCA to help digest that information about the statewide mandate for all of us around New York state, and that was extremely helpful. That included things like sample forms around requesting medical exemptions, and later, around religious exemptions, which I'll get to for a minute. And we wanted our management team to be really clear about where we had discretion and where we didn't. Mostly, in this case, we didn't. Now, as it turned out, there was a lawsuit filed against the New York state mandate for health care workers about the non-inclusion of religious exemption. In the first court that heard that case, that court put in place a temporary injunction, which required we as the health care institutions to then offer a religious exemption. That actually happened, that court case happened the day after the state mandate went into effect.

Wendy Stark ([00:34:47](#)):

Like Rhonda described, our response to the mandate and to folks who remained unvaccinated was to offer people temporary unpaid suspensions for three weeks. Same exact as Rhonda did, as it turns out. We had put people, a few people, on unpaid suspension the day of the mandate, and then the next day, religious exemptions were back on the table. We called all those folks back and let them know about the opportunity to apply for a religious exemption, which is ultimately an accommodation, and then we had to make a decision about whether we would accommodate those requests from our staff, and if it was a reasonable accommodation for our health center and our operations.

Wendy Stark ([00:35:30](#)):

It was very difficult to be clear, but it was really critical to be clear with our staff about the timeline of everything that was going to happen, what the consequences would be of not following the mandate, what the details around testing were for the city mandate that we were required to follow. The who pays question that was posed earlier, in our case, it was the employee that had to pay. As Vacheria mentioned, the health insurance companies are really not doing as much paying for COVID tests for the purposes of employment anymore. We are a union shop, so we spoke with our union at length about what their expectations were and what they would be looking for their members to see in their workplaces. Making sure that you know, if you are unionized, what your union's stance on this is, is very important. Thinking about whether there were going to be carrots, incentives for staff to become vaccinated or not, and of course, the consequences of noncompliance, as I mentioned before. The next slide, please.

Wendy Stark ([00:36:50](#)):

I have a set of general recommendations and learnings from what we went through. And I will say, at the end of the day, only 1% of our staff are unvaccinated. We have about 400 staff, so it was four people that we ended up putting on unpaid suspension, all of whom applied for a religious exemptions. All of those exemptions last week, or accommodations, were granted. And then on Friday of last week, a state Court of Appeals ended the temporary injunction on the vaccine mandate in its lack of religious exemption here in New York state. Today, we're telling those four staff that the religious exemption is no longer an option, and giving them a grace period for thinking about whether or not they're going to get the vaccine or have a separation from the organization and be ineligible for employment going forward.

Wendy Stark ([00:37:41](#)):

That 1% was much smaller than I expected it to be. Just a few months ago, about 30% of our staff remained unvaccinated, and those numbers slowly started to trickle and get higher. The vaccinated population at least got higher with the efforts that we did and with the mandate looming. In New York state writ large, the health care workers mandate has resulted in less than 3% of staff loss at institutions throughout the state, and I think those numbers are even ticking down as folks who are in health care, especially licensed clinicians, this is their career, are seeing that the federal mandate is looming on the horizon, too. It will soon be very difficult to get a job in health care, I think, without a vaccination, except for potentially in private health care practices.

Wendy Stark ([00:38:34](#)):

So, my general recommendations are communication early and often. Be prepared for the feelings that come. We always talk about, in health care, in our health center, that we are accountable gatekeepers, right? We're, as primary care providers especially, the answer to folks getting access to so many different kinds of services, and we try to do that as accountably as possible, even through the difficult things that we do, navigating different kinds of health insurance and different kinds of hospital systems, all the things that we navigate every day. In this, too, for our staff, we tried our best to be accountable gatekeepers of the regulatory mandate, right?

Wendy Stark ([00:39:19](#)):

We shared with our staff, and I took a position of trying to be vulnerable with staff that it was a frustrating time to try to understand that, one day, there was a mandate in place without a religious exemption, and the next day, the courts changed it. Likely, there will be some similar things happening at the federal level, although we did see the Supreme Court rule. Someone mentioned last week that they were not going to hear a claim against the state of Maine's vaccine mandate, so that was an interesting development.

Wendy Stark ([00:39:51](#)):

And my biggest piece of advice here, if you will, is knowing that this is going to take a lot longer than you think it is, implementing the mandate, right? Having so many individual conversations with folks about both the logistical details. When do I have to have it by? How do I upload my proof of vaccine? How is the organization going to keep those vaccine records? Many of us, of course, already have in place, as Rhonda mentioned, so many other vaccine records of our staff. How do we keep that confidential? Not subject to HIPAA, is Vacheria said earlier, but certainly, the medical issues of our staff are confidential. How do you make sure you're keeping that in the appropriate HR files, in that extra-special, secret place?

Wendy Stark ([00:40:44](#)):

But also, sharing enough information with your managers who are dealing with the day-to-day challenges of operating at a time when we all have workforce challenges, knowing that they might lose some of their staff, but not knowing the exact staff who are unvaccinated and who might be leaving the workforce soon, right? That was also a challenge. How do you navigate that medical confidentiality issue? But I would really recommend putting aside as many projects as you can in that week or one prior to and just after the timing of your vaccine mandate. It does take more time than you think. Handling things with care, really trying to reduce the stigma of folks who are concerned about the vaccine and their confidentiality as much as possible, understanding that it's going to take time, and making a lot of

room for feelings are my biggest pieces of advice. Thank you. I look forward to answering questions as well.

Brandon Jones ([00:41:50](#)):

Okay. Hello, everyone. Thank you. There's several questions. I was churning the questions and trying to find those for the tail end. I'm actually going to make my section... I'm trying to abbreviate my section a little more than I expected to do, so bear with me.

Brandon Jones ([00:42:04](#)):

I wanted to take a moment. Two months ago, I sent a request out for sample policies, procedures, communication samples, documents, anything that you have that you're willing to share, and I'm so pleased with the response that we got on those documents. I received several samples, and I wanted to take a moment to just thank specifically those organizations that responded with their samples. You can find those samples. The link is now available for the [nachc.org/coronavirus](https://nachc.org/coronavirus). But also, the link will be shared in chat for the clearinghouse. The next clearinghouse, you'll see that there for the webpage, and then certainly, the clearinghouse is available as well, where you can find the document and download it. This document is a living document, so we will update that document as new samples come in. Or if certain information changes, we'll try to make sure that's updated appropriately.

Brandon Jones ([00:42:59](#)):

But for those health centers, the Delta Health Center... We have a few in Mississippi. Delta Health Center, Family Health Care Clinic in Mississippi, as well as G.A. Carmichael Family Health Center in Mississippi. Thank you all. Eagle View Community Health Systems in Illinois, HealthLinc in Indiana. Yakima, of course, Neighborhood Health Services in Washington. Carolina Health Centers, we didn't put your name in there, but I did want to make sure we acknowledge that we received samples from you guys. And lastly, CrescentCare, Inc., in Louisiana. Thank you all so much for being so gracious with sharing your information. Next slide, please.

Brandon Jones ([00:43:36](#)):

All right. We determined the best approach. As we determined the best approach to deliver these samples to you, we decided to break it up into three simple sections. You'll see the first is protecting your health center community and stopping myths, and then we're looking at establishing policies and procedures for the second section, and then the last section is looking at exemptions, recognizing exemptions, medical and religious exemptions. I know there's several questions in the Q&A about exemptions and how we're handling those. In our approach, we decided to first reemphasize that vaccines are available, effective, affordable, and easily accessible. You'll see that in the resource guide. Health centers have been... You guys have just been at the forefront of ensuring special and vulnerable populations are getting vaccinated when they want to. And if they need additional support, you're making that happen.

Brandon Jones ([00:44:31](#)):

The resource guide directs you to CDC's page on what you need to know. We're trying to make sure we are following public health guidance, and certainly scientific guidance, with what we share with you all. You can find more information about the variants, side effects to getting vaccinated, recommendations on boosters for those who may be immunosuppressed, as well as recommendations on which vaccine might be best for you. Of course, those recommendations, certainly in consultation with your PCPs. And

lastly, the Mayo Clinic's page just provides some really, really helpful information around myth debunking. When you get a chance to get to the resource guide, take a look at that. It really does highlight several common things, myths that you're hearing, that you can certainly share with your patients as you're building awareness and trying to educate them more about the vaccine and the importance of the vaccine. Next slide, please.

Brandon Jones ([00:45:29](#)):

Next section is looking at the policies and procedures. This is really the meat of the resource guide. Thanks again to those health centers for sharing your information. You'll find many samples of board-approved policies. I'll be very clear about that. Board-approved policies and procedures that you can utilize at your organizations. Understanding, certainly, going through this process, understanding that many of you have already established vaccine mandates. I know that November 1 was probably the D-day for several of you all, and some of you are on health center mandates. Understanding that you've already established these within your organizations prior to now. The rule is not out yet, but due to state mandates, even some city-wide mandates. We know all of those are happening. But keep in mind, these samples can still assist you either way as you either prepare or refine your processes at your organization.

Brandon Jones ([00:46:23](#)):

She said it's okay for me to say her name, so of course, Beth Wrobel, thank you so much for sharing, with HealthLinc. She mentioned, I thought, a really effective approach, something for all our health centers to consider. They at HealthLinc require notice versus just terminating the employee. I know the policies are mandated, very clear-cut. This is the date that you better be vaccinated, or you're terminated. But their approach is they require notice. They have a policy for staff to get their accrued PTO. The hourly staff must give, I think, two-week notice, and managers give a month notice. If you're considering not complying with the mandate, they're requiring that you provide notice, which I thought that's a helpful approach to take, certainly if you have concerns around just terminating your employees. They tend to stay away from just saying employees are terminated because of this. They tend to focus on, if you do not meet the requirements for the position, then you're no longer qualified for the job. Yes, you are termed in that instance, but not just for the vaccine mandate. They only had to officially term one person. Just helpful tidbit of information for you to take back. Great. All right. Next slide, please.

Brandon Jones ([00:47:42](#)):

Lastly, the exemptions. The resource guide does direct you to several links, some health center links, certainly some information for CMS, ADA, OSHA, and EEOC, for guidance on how you should handle exemptions. I want to make it very clear. Certainly, one our panelists and one of our health center leaders mentioned about clarifying between accommodations and exemptions. For example, an employee may qualify for an exemption, but not an accommodation. Accommodation can be based on... If it's creating an undue hardship for your organization from a staffing perspective, then you as the organization, you do have the ability to make that determination based on how it impacts your operations. Still taking precedence, still making sure that you offer the employee the opportunity, or you try to see if there is an accommodation that you can make for that employee. But ultimately, if it creates an undue hardship on your organization operationally, then you have that flexibility to make that decision.

Brandon Jones ([00:48:47](#)):

An example is given about a state. The Department of Health determined that staff working for their facilities might qualify for medical exemption, but can't provide accommodations that would not put the public at risk. Thinking about how health departments are laid out, you can understand that example.

Brandon Jones ([00:49:09](#)):

The EEOC has posted some very helpful FAQs, I think Vacheria mentioned it earlier, to assist organizations with navigating a COVID-related exemption request. We'll pose a question regarding exemptions with the panelists in our Q&A to get their perspective and suggestions. We'll talk a little more about that during our Q&A. CDC also offers some very helpful information on medical exemptions, so we can talk a little more about that, and certainly, the approaches that our panelists have taken during the Q&A. Next slide, please.

Brandon Jones ([00:49:41](#)):

All right. There's a ton of questions, and I'm going to take a moment to scour through some of them. I have perusing through those, too, and sending me questions that we want to make sure to address and add some priority to them. But to start off, to get the discussion started, since we got about 10 minutes left, I wanted to ask the panelists a few questions. One in particular that came up before I get to those. Wendy, if you could take a moment, clarify your carrots analogy. I can't remember the analogy, but you mentioned something about carrots, and someone had a question about providing clarity.

Wendy Stark ([00:50:20](#)):

Sure. Excuse me. We considered doing an incentive program for people to become vaccinated. Of course, we ended up not doing it, but we did realize, if we did it now, it would have to be retroactive to all employees who had gotten vaccinated. We considered, would people get a \$50 gift card, or whatever the case may be? We didn't end up going that direction, although we have some colleague health centers that went in that direction. We did go in the direction of making sure we were more generous than the law required around time off for vaccine side effects. Earlier in the pandemic with FFCRA time off for caring for a sick family member, we were as generous as we could possibly be around accommodating people's needs related to families having COVID or themselves having COVID or getting vaccinated time-wise. That's an example of a carrot. "I'll give you additional time off for as much as you need if you have side effects from the vaccine," as an example.

Brandon Jones ([00:51:24](#)):

Great. Thank you, Wendy. I know that you got some questions ahead of time. We have some other questions that I think take a little priority, one around board members. I'd love to hear from both of you, Rhonda or Wendy. Were board members required to be vaccinated, and what was the process for that to take place?

Rhonda Hauff ([00:51:45](#)):

This is Rhonda. I'm going to just jump in real quick and say, on the idea of carrots, we had... In the summer, before our mandate, and looking across our departments, we had offered, once we hit the 90% mark, that we were going to bring food trucks to all of our sites for lunch. We never got that far before the mandate, but in September, in late September after the mandate, we did bring food trucks in, because we had thrown out the promise. When we were at 100%, we did a few weeks ago, we had food

trucks go to all of our sites at lunch one day as a thank-you to all of our staff. That went over very big. It was very popular. I think that brought a lot of goodwill back to the staff.

Rhonda Hauff ([00:52:34](#)):

In terms of our board, we didn't have to address that, because as soon as the vaccines were available, 100% of our board came in and got their vaccines. So, that was not an issue for us to address.

Wendy Stark ([00:52:46](#)):

We are currently not requiring board members to become vaccinated, only because our board meetings have become virtual since COVID. If and when our board meetings go back to being in person, according to counsel from our state PCA, we should require our board members to become vaccinated, so we'll consider that for them.

Brandon Jones ([00:53:07](#)):

Great. I think that actually answered another question around whether board meetings were virtual or not, so that's very helpful. Thank you.

Brandon Jones ([00:53:15](#)):

Some general question I think shared with you all earlier. What made your health center decide to implement the vaccine mandate, and what were some tough conversations happening internally? I'll let either one of you start.

Rhonda Hauff ([00:53:30](#)):

Well, for us, and I think I addressed this in my comments, it was the Delta variant, it was the fact that we had such a high rate of COVID in our community, and that we were serving such a... We are a Health Care for the Homeless grantee, we serve a lot of agricultural workers, and the staff that were so targeted and being out on the streets doing the testing and screening and the vaccine were our least vaccinated group. It really raised the alarms for us. And again, we had a high vaccination rate among our staff, but our most vulnerable staff were the least vaccinated.

Rhonda Hauff ([00:54:13](#)):

Among our leadership team, and we have about 30 people on our leadership team. Our leadership team was all in favor and supportive and in agreement at the point that I took it to our board of directors. I would have to say it was not unanimous at our board. I think we had two of our board members abstain. They didn't vote against it. Their concern was that we would be the first health care organization in the valley to go forward before the governor's mandate. That was their concern, their big concern. But in the end, we did go forward with it. That was the tough conversation for us. And the fact that we might lose employees to other organizations, which we did, but not as many as we feared.

Brandon Jones ([00:55:05](#)):

Great.

Wendy Stark ([00:55:06](#)):

And for us, it wasn't discretionary. We had a mandate. But I have to say, we've also had a lot of staff be very grateful for the mandate, is the other side of this. Even since the mandate, we had a positive case

among our staff of someone who was only partially vaccinated so far, and staff who were in that lunchroom with that person were very concerned and were looking for us to put more protections than we already had, with plexiglass and some of the things that Rhonda described that we'd done, too, in place. Many of our staff were very grateful for the mandate as much as some were unhappy about it.

Brandon Jones ([00:55:47](#)):

Great. Thank you both. One question that came up. It's really centered generally around contractors or contracted workers. But the question specifically goes around dentists. They have a contract dentist. I know Vacheria answered it, but I wanted to make sure I posed it verbally. "We have dentists that we can have a contract with. Are they exempt? I'm confused. What does that mean?" I know Vacheria referenced health centers are excluded from the federal contractors vaccine mandate. Vacheria, did you want to chime in on that just so we heard it verbally from everyone in case they didn't see it in the questions?

Vacheria Tutson ([00:56:22](#)):

Yeah. Thank you. I guess some folks might be jumping on late, and I understand all these mandates are a little confusing. There are several vaccine mandates that are coming out from the federal government that could impact health centers. We know for sure that the federal contractor mandate does not apply to health centers, because the executive order from President Biden specifically excluded grantees. And health centers are grantees. We're not necessarily federal contractors with the government. We are excluded from the federal contractor vaccine mandate.

Vacheria Tutson ([00:56:59](#)):

Health centers fall under the CMS facility vaccine mandate, because health centers are listed as facilities on the CMS website, we receive payment from Medicaid and Medicare, and we comply with the conditions of participation under Medicare, which a lot of Medicaid agencies use to verify FQHCs in their program. We know that we are under the CMS facility COVID-19 vaccine mandate that should be released later today. We will have the details once we have the text of the regulation to make the call about, does it apply to boards? How does it extend to contractors? How does it extend to dentists or people who share spaces with FQHCs? The who and the what it covers, we don't know for sure in detail, but we do know that health centers fall under the CMS facility vaccine mandate, and not the federal contractor mandate.

Brandon Jones ([00:57:56](#)):

Great. Thank you, Vacheria. We're kind of getting low on time, but I do want to ask one other question specific to New York state, and I'm going to address it to you, Wendy. It says, "In New York state, if an employee no longer has a religious exemption, is there an option to offer the employee 100% work-from-home option? We were told that this is still an allowable option." Could you clarify or explain on that?

Wendy Stark ([00:58:22](#)):

Wait. Counsel to our state PCA did say that we could make an accommodation by allowing people to work 100% from home, but that means absolutely 100%. The person cannot come into the office to drop something off. They cannot step onsite, essentially. We decided that that was an unreasonable accommodation, that we were unable to make it for our workforce, so we didn't offer that as an accommodation, although, to my understanding, it is possible.

Brandon Jones ([00:58:50](#)):

Great. Thank you. Be rest assured, the questions, we will get answers to your questions. This is recorded, so we'll make sure that we get some questions answered that are unanswered. Vacheria, do you have an additional comments you want to add on that?

Vacheria Tutson ([00:59:08](#)):

Just last thing. Health centers will fall under the OSHA Emergency Temporary Standard for employers with over 100 employees if your health center is at that employee rate. However, we have to see the texts of both regulations to see how that testing requirement and the OSHA regulation would apply to health centers, but you can assume that the CMS vaccine mandate will apply more stringently to health centers, as in that will be the guiding regulation that we should follow, knowing that that is specifically for health care providers and health care facilities like FQHCs.

Vacheria Tutson ([00:59:47](#)):

And I see we have literally one minute, so we'll briefly go to the next slide. Thank you, guys, for all these questions. What's next? We will hold a webinar on the actual regulation when I can see the text and I can read it. We will definitely provide a FAQ for everyone. Please feel free to email me at [regulatoryaffairs@nachc.org](mailto:regulatoryaffairs@nachc.org) if you have any more specific questions.

Vacheria Tutson ([01:00:11](#)):

And then additionally, we're going to host some webinars, really about having compassionate conversations for health care leaders and supervisors. We really want to make sure that folks have the tools to have the conversation with employees that are in that gray area, that are still on the fence about getting the vaccine, and making sure we're leading with compassion and educating our employees and not shaming people for not being ready to get the vaccine. That's very important, as we want to retain every staff person, because every employee matters at the health center. We will have a few webinars with some great leaders that are focusing on health equity and how to have those difficult conversations, and then we also will still have a webinar on the vaccine mandate rule, and also the OSHA rule if they come out around the same time.

Vacheria Tutson ([01:00:57](#)):

Please stay tuned for that. We know that this webinar kind of hit capacity, so just for future references, we can only let 1,000 people on. That's all WebEx gives us. It's not us trying to hold you guys back. For the next webinar, just make sure you get on early. It's first come, first serve, but we will have recordings available as soon as possible, and be sending out the slides. Really just want to thank you all for showing up today. Next slide. I think that's it.

Vacheria Tutson ([01:01:24](#)):

Please also visit the Health Center Resource Clearinghouse. We have resources that Brandon went over. The resource guide for employee vaccine mandates, as well as resources that we compiled for the OSHA regulation, and that webinar as well, too, if you want to revisit that. Please make sure you check out the Health Center Resource Clearinghouse. And also, please keep up-to-date with all of NACHC's social media channels, so we can make sure that we are providing information to you guys as soon as possible. And then, next slide.

This transcript was exported on Nov 03, 2021 - view latest version [here](#).

Vacheria Tutson ([01:01:55](#)):

I think that's it for us. Thank you, guys, today. Thank you to our presenters. Thank you for all that information. We will provide some type of FAQ or followup to recap all the questions that were answered today. Thank you all. Keep up the good work. We really appreciate it at NACHC. We'll be here for you, whatever you need. Thank you.