



Charge Against an Agency

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Search or write-in Charged Party information?

Write-in

Name of Charged Agency

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Activity Name of Charged Agency

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Search or write-in Charging Party information?

Write-in

Name of Charging Party Organization or Individual

National Veterans Affairs Council (NVAC)

Party Type of Charging Party Organization or Individual

Union

City of Charging Party Organization or Individual

Washington, DC

Local Name of Charging Party Organization or Individual

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State of Charging Party Organization or Individual

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Charging Party Representative Information

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Basis of the Charge

OGC Regional Office

OGC-WA - Washington Regional Office

Set forth a clear and concise statement of the facts constituting the alleged unfair labor practice, including date and location of the particular acts:

On August 10, 2020, Kurt Martin, Labor Relations Specialist, informed the National VA Council (NVAC) that the Veterans Health Administration (“VHA”) issued Directive 1192.01 (“Directive”) outlining its seasonal influenza (“flu”) vaccination program for VA Healthcare Personnel. Prior policies strongly encouraged flu vaccination but did not make such vaccination mandatory for bargaining unit employees who were healthcare personnel. The Parties bargained an MOU for the VA’s vaccination program in years past. The new policy, VHA Directive 1192.01, requires all healthcare personnel to be vaccinated no later than November 30, 2020, and makes exceptions for medical reasons or deeply held religious beliefs. The Directive states that employee compliance with the Directive is a condition of employment and that VA Health Care Personnel in violation of the directive “may face disciplinary action up to and including removal from federal service.” The same day, August 10, 2020, NVAC submitted a demand to bargain. Between October 28 - 30, 2020, the parties met for negotiations for approximately 3 hours per day and the NVAC is poised to submit a revised proposal on November 12, 2020 to the VA. However, in spite of the NVAC’s continued, good faith efforts to bargain over the VA’s Directive, the VA has begun to unilaterally implement VHA Directive 1192.01 at numerous facilities across the country, threatening employees with termination or discipline for failure to comply with mandatory flu vaccination, in some cases if compliance is not demonstrated by November 20, 2020 though the policy itself states November 30, 2020. It should be noted that the parties have failed to reach agreement or bona fide impasse. By implementing this policy before reaching impasse or agreement with the Union, the Agency has violated federal statutes 5 U.S.C. 7116(a)(1) and (5). To date, numerous bargaining unit employees at VA facilities nationwide have been forced to comply with this Directive or else threatened with termination. The affected employees include: the entire bargaining unit at AFGE Local 31 at the Cleveland VA Medical Center, the 13 CBOCS and other additional facilities; the entire bargaining unit of AFGE Local 1384 in Fort Wayne, IN and Mishawaka, IN; the entire bargaining unit of AFGE Local 1631 in Chillicothe, OH; and the entire bargaining units of AFGE Locals 1020, 1384, 2031. Based on ongoing reports from affected employees and local unions, NVAC suspects that the unlawful and premature implementation of the Directive is nationwide. Given the highly intrusive policy of requiring employees to undergo a medical procedure, reveal to the public that they have not submitted to a vaccine by wearing a face mask, or face discipline including potential termination, the Union asks that the FLRA intervene immediately and enjoin the further implementation of this requirement. The Union further asks that the FLRA order that the Agency rescind the Directive and return to the status quo ante until such time as an agreement has been reached or the Agency has completed its bargaining obligations. Finally, the Union asks that the FLRA order the Agency to reimburse employees who have incurred administrative costs and copays associated with compliance with the Directive.

Attachments

Please attach any available supporting documents.

Description

VHA Directive 1192.01

Attachment

 Mandatory_Vaccination_Directive_1192.01_08102020_Final.docx

Description

Email Transmitting VHA Directive 1192.01

Attachment

VHA_Directive_1192.01_SEASONAL_INFLUENZA_VACCINATION_PROGRAM_FOR_VHA_HEALTH_CARE_PERSONNEL_.msg

Description

NVAC Demand to Bargain

Attachment

Flu_Vaccine_Demand_to_Bargain.pdf

Identify which one or more of the following subsections of 5 U.S.C. § 7116(a) has or have allegedly been violated. Please note that a violation of (2) through (8) is an automatic violation of (1). For the purpose of this chapter, it shall be an unfair labor practice for an agency:

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

Have you or anyone else raised this matter in any other procedure?

No

Declaration

I declare that I have read this charge and that the statements in it are true to the best of my knowledge and belief. I understand that making willfully false statements can be punished by fine and imprisonment, 18 U.S.C. 1001.

Your Name (this will act as your signature)

Date

Sarah Hasan

11/11/2020

You are required to serve your charge on the Charged Party in accordance with 5 C.F.R. § 2423.6(d). **The filing of a document using the FLRA's eFiling System does not constitute service of the document on any party. The filing party must independently accomplish service by one of the following methods.**

This charge was served on the Charged Party Representative identified above by the following method(s):

Serving Method(s)

Email (but only when the receiving party has agreed to service by email under 5 C.F.R. § 2429.27(b)(6))

**SEASONAL INFLUENZA VACCINATION PROGRAM FOR VHA HEALTH CARE
PERSONNEL**

- 1. REASON FOR ISSUE:** To establish policy and provide guidance for mandatory seasonal influenza vaccination among health care personnel (HCP) in the Veterans Health Administration (VHA).
- 2. SUMMARY OF CONTENT:** This VHA directive requires all HCP covered by the policy to receive annual seasonal influenza vaccination.
- 3. RELATED ISSUES:** VHA Directive 1013(3) Prevention and Control of Seasonal Influenza with Vaccines. Wherever this directive conflicts, it supersedes any prior local or national VHA policy related to influenza vaccination and influenza prevention in HCP.
- 4. RESPONSIBLE OFFICE:** The Office of Occupational Safety and Health (10NA5B) is responsible for the contents of this VHA directive. Questions may be referred to the Clinical Occupational Health Program at VHAEOHProgram@va.gov.
- 5. RESCISSIONS:** VHA Directive 1192, dated September 26, 2017, is rescinded.
- 6. RECERTIFICATION:** This VHA directive is scheduled for recertification on or before the last working day of August 10, 2025. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

**BY DIRECTION OF THE OFFICE OF
THE UNDER SECRETARY FOR HEALTH:**

Renee Oshinski
Assistant Under Secretary for Health
for Operations

NOTE: All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.

DISTRIBUTION: Emailed to the VHA Publications Distribution List on August 10, 2020

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APPENDIX B

HEALTH CARE PERSONNEL INFLUENZA VACCINATION FORMB-1

SEASONAL INFLUENZA VACCINATION PROGRAM FOR VHA HEALTH CARE PERSONNEL

1. PURPOSE

This Veterans Health Administration (VHA) directive establishes policy and provides guidance for the prevention of seasonal influenza in VHA facilities through the vaccination of health care personnel (HCP). **AUTHORITY:** Title 38 United States Code (U.S.C.) §§ 7301(b), 7318(b).

2. BACKGROUND

a. The Centers for Disease Control and Prevention (CDC), the Advisory Committee on Immunization Practices (ACIP) and the Healthcare Infection Control Practices Advisory Committee (HICPAC) recommends that all United States health care workers are vaccinated annually against influenza (also known as “flu”).

b. Influenza viruses are transmitted mainly by droplets made when people with flu cough, sneeze or talk, in a manner similar to other respiratory pathogens that cause severe acute viral respiratory syndromes. These droplets can land in the mouths or noses of people who are approximately six feet away from an infected person or possibly be inhaled into the lungs. Influenza viruses have contributed to several prior pandemics.

c. CDC reported 81.1% of HCP in the U.S. received an influenza vaccination during the 2018–19 season, similar to reported coverage in the previous four seasons. The percentage of VHA HCP immunized against influenza has been lower than the national percentage, nearing 65-75%, despite efforts to increase vaccination compliance over the past five years.

d. Influenza is particularly severe in certain populations, especially the elderly, frail and immunosuppressed, and its transmission is an underrecognized yet substantial safety concern, accounting for millions of influenza-related medical illnesses and visits, hundreds of thousands of hospitalizations and several thousand deaths annually across the United States. CDC estimated the national burden of flu related illnesses from October 1, 2019 to April 4, 2020 as 39,000,000 – 56,000,000 flu illnesses, 18,000,000 – 26,000,000 flu medical visits, 410,000 – 740,000 flu hospitalizations and 24,000 – 62,000 flu deaths. Within VHA, there were 4,610 influenza-coded hospitalizations, 617 ICU stays and 107 deaths in the 2019 – 2020 flu season. The overall VHA flu hospitalization rate for the 2019 – 2020 season was 67.8 per 100,000 Veterans in care.

e. Society and professional norms set the expectation that HCP “do no harm” to the patients they treat and serve. Accordingly, every reasonable step should be taken to prevent transmission of influenza in VHA facilities. This prevention effort is multipronged. It includes annual vaccination of patients and HCP, proper hand hygiene, respiratory hygiene, cough etiquette and HCP self-exclusion from work during illness.

f. Annual vaccination is widely recognized as the best method for preventing disease and death related to influenza. Vaccination of both patients and HCP is the cornerstone of efforts to prevent healthcare-associated influenza transmission. Vaccination of HCP reduces the risk that HCP will become infected with influenza, thereby reducing the risk of transmission to susceptible patients and co-workers and contributing to maintaining a healthy workforce to care for patients.

g. In 2010 the Department of Health and Human Services (HHS) established a goal of 90 percent for HCP influenza vaccination in its *Healthy People 2020* and National Action Plan to Prevent Healthcare-Associated Infections. Despite a mandatory seasonal influenza participation program in VHA, VHA has failed to meet the vaccination goal of 90 percent of HCP.

h. The Centers for Medicare and Medicaid Services (CMS) has also endorsed a goal of 90 percent for HCP influenza vaccination compliance, and now expects all participating facilities to report HCP influenza vaccination rates to the National Healthcare Safety Network (NHSN) as required by the Hospital Inpatient Quality Reporting Program and Hospital Outpatient Quality Reporting Program.

i. Policies mandating influenza vaccination of HCP are supported or endorsed by many leading professional and health care consumer organizations, including the American Hospital Association, the American College of Physicians, the American Academy of Pediatrics, the American Nurses Association, the Society for Healthcare Epidemiology of America, the Infectious Disease Society of America, the Pediatric Infectious Disease Society, the Association of Professionals in Infection Control and Epidemiology and the National Patient Safety Foundation.

j. Members of the Council of Teaching Hospitals, including many leading academic medical institutions in the United States, have implemented policies for HCP influenza vaccination as have the Department of Defense, the Indian Health Service and the National Institutes of Health Clinical Center.

k. According to the Immunization Action Coalition, there are currently 1139 organizations and 291 Long-Term Care / Assisted Living organizations on the Influenza Vaccination Mandates Honor Roll, which recognizes stellar influenza vaccination mandates nationwide.

3. DEFINITIONS

a. **Face Mask.** For the purposes of this directive a face mask is a loose-fitting disposable mask, provided by VHA, that covers the nose and mouth. Face masks should be worn as outlined in local and national policies. Fitted N95 respirators or other respirators are not required by this policy, but they should be used when appropriate to the task (e.g., when caring for a patient on airborne infection isolation precautions); if N95 or higher respirators are used, they also serve the purpose of being considered a face mask for this directive.

b. **Health Care Personnel (HCP)**. HCP are individuals who, during the influenza season, work in VHA locations or who come into contact with VA patients or other HCP as part of their duties. VHA locations include, but are not limited to, VA hospitals and associated clinics, community living centers (CLCs), community-based outpatient clinics (CBOCs), domiciliary units, Vet centers and VA-leased medical facilities. HCP include all VA licensed and unlicensed, clinical and administrative, remote and onsite, paid and without compensation, full- and part-time employees, intermittent employees, fee basis employees, VA contractors, researchers, volunteers and health professions trainees (HPTs) who are expected to perform any or all of their work at these facilities. HPTs may be paid or unpaid and include residents, interns, fellows and students. HCP also includes VHA personnel providing home-based care to Veterans and drivers and other personnel whose duties put them in contact with patients outside VA medical facilities.

***NOTE:** This definition does not include visitors to the medical facility, including individuals who enter to conduct occasional or sporadic services, surveyors, inspectors, political representatives, or media personnel. Also excluded are non-VA personnel providing home services through contracts with VA and private facilities providing care under contract with VA. However, the exclusion of contracted non-VA personnel and facilities from this policy does not preclude VA from requiring influenza vaccination of these personnel in their respective contracts; in fact, this practice should be strongly supported and encouraged.*

c. **Influenza Season**. For the purposes of this directive, the influenza season is generally considered to span the four-month period from December 1 through March 31; however, it can vary from one season or geographic location to another. Individual VHA facilities may expand (but not reduce) this time period based on local influenza activity and other epidemiological circumstances.

d. **Influenza Vaccine**. Influenza vaccine is any Food and Drug Administration approved, commercially available product recommended by the CDC for the prevention of influenza in a particular season.

4. POLICY

It is VHA policy that medical facilities will achieve a mandatory seasonal influenza vaccination program by requiring all HCP to receive annual seasonal influenza vaccination or obtain an exemption for medical or religious reasons. Compliance with this directive is a condition of employment. HCP in violation of this directive may face disciplinary action up to and including removal from federal service.

5. RESPONSIBILITIES

a. **Under Secretary for Health**. The Under Secretary for Health is responsible for the overall authority of this directive.

b. **Assistant Under Secretary for Health for Support Services**. The Assistant Under Secretary for Health for Support Services is responsible for:

(1) Providing oversight to the VHA Office of Occupational Safety and Health (10NA5B) and ensuring that it maintains the resources necessary to implement this directive.

(2) Collaborating with the Assistant Under Secretary for Health for Operations and the Assistant Under Secretary for Health for Quality and Patient Safety to support monitoring, reporting and evaluation of the impact of this directive as guided by the VHA Office of Occupational Safety and Health.

c. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

(1) Facilitating consistent compliance across VISNs with the seasonal influenza vaccination program as prescribed in this directive.

(2) Distributing communications pertaining to implementation, interpretation and evaluation of this directive as developed by the VHA Office of Occupational Safety and Health.

(3) Collaborating with the Assistant Under Secretary for Health for Support Services and the Assistant Under Secretary for Health for Quality and Patient Safety to support monitoring, reporting and evaluation of the impact of this directive as guided by the VHA Office of Occupational Safety and Health.

d. **Assistant Under Secretary for Health for Quality and Patient Safety.** The Assistant Under Secretary for Health for Quality and Patient Safety is responsible for:

(1) Collaborating with the Assistant Under Secretary for Health for Support Services and the Assistant Under Secretary for Health for Operations to support monitoring, reporting and evaluation of the impact of this directive as guided by the VHA Office of Occupational Safety and Health.

e. **Director, VHA Office of Occupational Safety and Health.** The Director, VHA Office of Occupational Safety and Health is responsible for:

(1) Ensuring the appointment of Program Office personnel to implement the requirements of this directive.

(2) Ensuring that adequate resources are provided to implement the requirements of this directive.

f. **Medical Advisor, VHA Office of Occupational Safety and Health.** The Medical Advisor, VHA Office of Occupational Safety and Health is responsible for:

(1) Developing and administering a standardized program to measure HCP vaccination status and rates and compliance with this directive across all VA medical facilities.

(2) Working closely with the National Seasonal Influenza Program, within the VHA National Center for Health Promotion and Disease Prevention, to provide further guidance on policies, procedures, education and training resources.

(3) Working closely with the Office of Reporting, Analytics, Performance, Improvement and Deployment (RAPID) to provide performance measures; oversight and compliance findings; and HCP influenza vaccination data requests.

g. Clinical Occupational Health Program Manager for Policy Oversight, VHA Office of Occupational Safety and Health. The Clinical Occupational Health Program Manager for Policy Oversight is responsible for:

(1) Developing and consistently interpreting policies, procedures and guidance for implementation and operation of the seasonal influenza vaccination program for VHA HCP.

(2) Serving as a liaison between those listed in Section 5 of this directive to relay seasonal vaccination program compliance data as relevant to each individual stakeholder.

h. Clinical Occupational Health Program Manager for Operations, VHA Office of Occupational Safety and Health. The Clinical Occupational Health Program Manager for Operations is responsible for:

(1) Overseeing the implementation and operation of the seasonal influenza vaccination program for VHA HCP, including communicating with facility and leadership stakeholders about implementation of the program.

(2) Promoting VHA use of existing or improved systems, tools and technologies to manage the documentation and reporting of HCP seasonal influenza vaccination.

i. Veterans Integrated Service Network Director. Each Veterans Integrated Service Network (VISN) Director is responsible for:

(1) Ensuring that necessary resources are available to implement and oversee the seasonal influenza vaccination program for VHA HCP in the VISN.

(2) Ensuring that all facilities within the VISN participate in oversight activities and measurements prescribed by the VHA Office of Occupational Safety and Health for the purposes of evaluating the seasonal influenza vaccination program for VHA HCP.

(3) Reporting to the Director, VHA Office of Occupational Safety and Health, or designee, all metrics prescribed by the VHA Office of Occupational Safety and Health for the purposes of evaluating the seasonal influenza vaccination program for VHA HCP.

j. **VA Medical Facility Director.** Each VA medical facility Director is responsible for:

(1) Ensuring that all aspects of this directive are implemented at the medical facility.

(2) Ensuring HCP have access to available training or education pertaining to proper use of face masks and other mitigation strategies that reduce the spread of flu. This includes clarification on how to access face masks, when to wear a mask, type of mask to wear, when to replace a mask, and proper disposal of masks, according to local and national policies.

(3) Designating personnel to respond to questions and address matters of local implementation related to HCP participation and guidance from the VHA Office of Occupational Safety and Health in the form of a VHA facility ad hoc work group.

(4) Ensuring VHA facility Employee Occupational Health personnel have the appropriate resources for implementation and operation of the seasonal influenza vaccination program for VHA HCP.

(5) Ensuring all HCP are notified of the requirement to participate in the seasonal influenza vaccination program, as described in Appendix A.

(6) Reporting to the VISN Director all metrics prescribed by the VHA Office of Occupational Safety and Health for the purposes of evaluating the seasonal influenza vaccination program.

(7) Ensuring HCP have access to information on: the existence, role, and procedures related to the VHA facility ad-hoc workgroup of subject matter experts; the current CDC Vaccination Information Sheet (VIS); the package inserts for flu vaccines used by the VHA facility that year; available training or education pertaining to flu, flu vaccine and flu prevention, including proper use of face masks and other mitigation strategies that reduce the spread of flu.

(8) Addressing non-compliant HCP, in conjunction with the HCP's supervisor and Chief Human Resources Officer, as necessary.

k. **VISN Chief Human Resources Officer.** The Chief of Human Resources at each VISN is responsible for:

(1) Notifying all applicants/prospective employees of the requirement to participate in the seasonal influenza vaccination program. (See Appendix B.)

(2) Aggregating and reporting all administrative actions resulting from violations of this directive to each VISN Director as prescribed by the VHA Office of Occupational Safety and Health for the purposes of evaluating the seasonal influenza vaccination program.

l. **Chief, Voluntary Service.** The Chief, Voluntary Service or other designated official at each VHA facility is responsible for:

(1) Notifying all current and prospective volunteers about the seasonal influenza vaccination program's vaccination requirement and providing them with information about how to comply with this directive.

(2) Providing and updating the roster of volunteers for VHA facility Employee Occupational Health.

(3) Counseling those volunteers who are not compliant with the requirements set by this directive and implementing actions determined by the VHA facility Director or designee for volunteers found to be in violation of this directive.

m. **Designated Education Officer (DEO) or Designee.** The DEO or his/her designee at each VA medical facility is responsible for all facility HPTs and:

(1) Ensuring through the Trainee Qualifications and Credentials Verification Letter (TQCVL) process that each HPT is aware of the VHA seasonal influenza vaccination program requirements.

(2) Receiving and maintaining trainee compliance certification via the TQCVL for all HPTs including paid and without compensation.

(3) Communicating with the academic affiliate and appropriate individuals at the VA medical facility about the necessity of HPT compliance with *VHA Directive 1192.01 on Seasonal Influenza Vaccination Program for VHA Health Care Personnel*.

(4) Monitoring trainee compliance and documentation is the responsibility of the Designated Education Officer.

n. **VHA Facility Employee Occupational Health Staff.** Employee Occupational Health staff at each facility is responsible for:

(1) Ensuring appropriate entry and maintenance of all documentation involving vaccination or exemption by HCP in accordance with VA Handbook 5019, Employee Occupational Health Service, August 3, 2017 or successor policy.

(2) Formulating and communicating the local process for secure receipt of documentation involving vaccination or exemption by HCP.

(3) Documenting and monitoring influenza vaccination compliance of all HCP and identifying to the VHA facility executive leadership those individuals who have not signed and submitted the Health Care Personnel Influenza Vaccination Form, VA Form 10-9050 (Appendix B) by November 30.

NOTE: *VHA Facility Employee Occupational Health staff may not identify individuals according to their vaccination status or otherwise indicate whether an individual has been vaccinated unless that individual has provided a qualifying authorization permitting the disclosure on VA Form 10-5345 Request for and Authorization to Release Health Information. Questions should be referred to the local Privacy Office.*

(4) Aggregating, analyzing and reporting to the VHA facility Director all metrics prescribed by the VHA Office of Occupational Safety and Health for the purposes of evaluating the VHA HCP seasonal influenza vaccination program.

o. **Health Care Personnel (HCP)**. HCP are required to comply with this directive by:

(1) Receiving the annual seasonal influenza immunization or obtaining an exemption for medical or religious reasons.

(2) Submitting the Health Care Personnel Influenza Vaccination Form, VA Form 10-9050 (Appendix B) by November 30 of each year to Employee Occupational Health.

(3) Wearing a face mask as described in Appendix A of this directive when an exemption to the influenza vaccination has been granted.

Compliance with this directive is a condition of employment. HCP in violation of this directive may face disciplinary action up to and including removal from federal service.

p. **VA Contracting Officers**. Contracting Officers shall ensure the flu vaccination requirements outlined in this directive are expected in all HCP contracts. VA contracting officers responsible for on-site HCP contract will inform the contractors about this directive and its requirements.

6. REFERENCES

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b. Centers for Disease Control and Prevention. Preliminary In-Season 2019-2020 Burden Estimates. <https://www.cdc.gov/flu/about/burden/preliminary-in-season-estimates.htm>. Accessed June 23, 2020.

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- l. Frederick J, Brown A, Cummings D, et al. Predicting Healthcare Personnel in Outpatient Settings; The influence of Mandatory vs Nonmandatory Influenza Vaccination Policies on Workplace Absenteeism During Multiple Respiratory Virus Seasons. *Infection Control and Hospital Epidemiology* 2018; 39, 452-461. <https://www.cambridge.org/core/journals/infection-control-and-hospital-epidemiology/article/protecting-healthcare-personnel-in-outpatient-settings-the-influence-of-mandatory-versus-nonmandatory-influenza-vaccination-policies-on-workplace-absenteeism-during-multiple-respiratory-virus-seasons/18BDBBB8BAE3C60051342A6D75689304/core-reader#> Accessed June 22, 2020.
- m. Greene, M.T., Fowler, K.E., Ratz, D. et al. Changes in Influenza Vaccine Requirements for Health Care Personnel in US Hospitals. *JAMA Network Open* . : (2)1;2018 <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2682876>. Accessed June 22, 2020.
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APPENDIX A

**PROCEDURES FOR IMPLEMENTING THE SEASONAL INFLUENZA
VACCINATION PROGRAM AT VHA FACILITIES**

**1. NOTIFICATION OF MANDATORY SEASONAL INFLUENZA VACCINATION
AMONG HEALTH CARE PERSONNEL IN THE VETERANS HEALTH
ADMINISTRATION**

a. VHA facility executive leadership or designee, Chief, Voluntary Service and the Designated Education Officer, will notify all health care personnel (HCP) that they are required to participate in the seasonal influenza vaccination program. HPTs will be notified through their respective programs.

b. Each VHA facility shall provide no less than two notifications by November 30, including that HCP in violation of this directive may face disciplinary action up to and including removal from federal service.

c. Human Resources will notify applicants or prospective employees who begin work after November 30 of the mandatory seasonal influenza vaccination program in their initial appointment/orientation documents.

d. HCP can contact the VHA facility ad-hoc workgroup of subject matter experts regarding matters of local implementation related to HCP vaccination, and application of procedures and guidelines of this directive.

2. VACCINATION

a. All HCP must:

(1) Be vaccinated for influenza or, if exempt from vaccination, wear a face mask as prescribed in this Appendix, and

(2) Sign and submit to the VHA Employee Occupational Health staff the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B) acknowledging:

(a) vaccination against influenza as a HCP in a VHA location by a VA provider

(b) vaccination against influenza as a VHA enrolled Veteran patient;

(c) vaccination against influenza by a non-VA provider as a HCP in a VHA location;
or

(d) exemption of influenza vaccination for medical or religious reasons.

b. HCP vaccinated by non-VA providers or their personal VHA providers must provide documentation of their vaccination, in addition to the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B), to VHA Employee Occupational

Health staff by November 30 of each year or within two weeks of starting work/volunteering. Acceptable documentation includes a signed record of immunization from a health care provider or pharmacy, or a copy of medical records documenting the vaccination.

c. Vaccination of HCP for VHA begins when the vaccine becomes available. While vaccine may continue to be available through VHA, after November 30, any unvaccinated HCP must follow the procedures listed in paragraph 5 of this Appendix.

d. New HCP whose entry on duty date fall between the date the vaccine becomes available and the end of the influenza season (See Section 3.c) are required to participate in the seasonal influenza vaccination program. New HCP should wear a face mask until they are vaccinated during influenza season unless they have been given an exemption. New HCP shall be vaccinated within two weeks of beginning employment.

e. Monitoring compliance and documentation of HPT vaccinations is the responsibility of the DEO via the TQCVL process. However, VHA may choose to offer vaccine to trainees, and document vaccinations using the same process used for VA employees.

3. EXEMPTIONS

HCP may request exemption from receiving the seasonal influenza vaccine only for medical and/or religious reasons as prescribed in this directive. In such cases, HCP must complete the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B), declaring the exemption and acknowledging the requirement to wear a face mask throughout the influenza season when under conditions in the work environment described. (See Appendix A, paragraph 5.a and Appendix B.) If an exemption is not granted, HCP are required to receive annual seasonal influenza vaccination. The confidential nature of employee Personally Identifiable Information (PII) and Protected Health Information (PHI) will be recognized and respected in accordance with applicable laws and regulations.

a. Medical Exemption

If HCP decline to receive the seasonal influenza vaccine because of a medical contraindication, they must complete the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B) declaring an exemption for medical contraindication, with a personal physician's signature and National Provider Identification number. The reasons for contraindication must be recognized contraindications and precautions by the Centers for Disease Control and Prevention, found here: <https://www.cdc.gov/flu/prevent/whoshouldvax.htm>. HCP must obtain their immediate supervisor's signature on the VA Form 10-9050, but HCP need not disclose the reason for medical contraindication to their supervisor. HCP must submit the completed VA Form 10-9050 to the facility Employee Occupational Health staff by November 30 each year, or within two weeks of beginning employment.

NOTE: VHA Facility Employee Occupational Health staff may not identify individuals according to their vaccination status or otherwise indicate whether an individual has been vaccinated unless that individual has provided a qualifying authorization permitting the disclosure on VA Form 10-5345 Request for and Authorization to Release Health Information. Questions should be referred to the local Privacy Office.

b. Religious Exemption

If HCP decline to receive the seasonal influenza vaccine because of a deeply held religious belief, they must complete the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B) declaring an exemption for deeply held religious belief. HCP must obtain their immediate supervisor's signature on the VA Form 10-9050, but HCP need not disclose the religious reason to their supervisor. HCP must submit the completed VA Form 10-9050 to the facility Employee Occupational Health staff by November 30 each year, or within two weeks of beginning employment.

NOTE: VHA Facility Employee Occupational Health staff may not identify individuals according to their vaccination status or otherwise indicate whether an individual has been vaccinated unless that individual has provided a qualifying authorization permitting the disclosure on VA Form 10-5345 Request for and Authorization to Release Health Information. Questions should be referred to the local Privacy Office.

4. DOCUMENTATION

a. When the HCP is vaccinated at a VA medical facility, the HCP must complete the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B) and Employee Occupational Health maintains Appendix B. The person administering the vaccine, Employee Occupational Health staff or designee, must document the vaccination in accordance with VA Handbook 5019, Employee Occupational Health Service, August 3, 2017, or successor policy, or as directed by VHA Employee Occupational Health.

b. When the HCP is vaccinated as an enrolled Veteran patient at a VA facility, the HCP must complete the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B) including documentation verifying vaccination (with information on vaccine name, date of administration, and name of clinician administering vaccine) and deliver both to Employee Occupational Health staff to indicate the vaccine was administered outside of Employee Occupational Health. VHA Facility Employee Occupational Health staff will collect VA Form 10-9050 (Appendix B) from HCP and notify facility executive leadership of those individuals who have not signed and submitted the form by November 30.

NOTE: VHA Facility Employee Occupational Health staff may not identify individuals according to their vaccination status or otherwise indicate whether an individual has been vaccinated unless that individual has provided a qualifying authorization permitting the disclosure on VA Form 10-5345 Request for and Authorization to Release Health Information. Questions should be referred to the local Privacy Office.

c. When the HCP is vaccinated by a non-VA provider, the HCP must complete the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B) including documentation verifying vaccination (with information on vaccine name, date of administration and name of clinician administering vaccine) and deliver them together to Employee Occupational Health staff, to indicate the vaccine was administered outside of Employee Occupational Health. VHA Facility Employee Occupational Health staff will collect VA Form 10-9050 (Appendix B) from HCP and notify facility executive leadership of those individuals who have not signed and submitted the form by November 30.

Monitoring trainee compliance and documentation is the responsibility of the Designated Education Officer.

5. MASKING FOR UNVACCINATED HEALTH CARE PERSONNEL

a. HCP who do not receive influenza vaccination due to medical or religious exemptions must designate this on the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B) and wear a face mask while in any VHA location, including both clinical and non-clinical areas. In addition, HCP are required to wear a face mask during performance of their assigned duties and responsibilities, as outlined in local and national policies.

b. The face mask shall be worn throughout the influenza season (See Section 3.c) or until the individual HCP receives a flu vaccination and completes the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B).

c. HCP may remove the face mask only under the following circumstances:

(1) When eating or drinking.

(2) When working in an enclosed office alone.

(3) When there are physical barriers or at least six feet of distance between the unvaccinated HCP and any other HCP, patient; or other person; for example, when working in a cubicle with its open side at least six feet from anyone else.

(4) After exiting a VHA facility provided that at least six feet of distance between the unvaccinated HCP and any other HCP, patient; or other person can be maintained.

d. Face masks will be made available at VHA facilities and distributed per local policies. A face mask must be replaced when it becomes wet, visibly soiled, torn, or damaged. Alternatives to face masks, such as face coverings, may be considered under limited conditions with the guidance of infection control professionals (e.g. in non-clinical areas during a pandemic) as outlined in local and national policies.

6. HEALTH CARE PERSONNEL IN VIOLATION OF THIS DIRECTIVE

a. HCP will be in violation of this directive if they:

(1) Have not by November 30 of each year:

(a) Received the seasonal influenza vaccination: or;

(b) Requested an exemption from vaccination, and;

(c) Signed and submitted to the VHA facility a completed Employee Occupational Health staff the Health Care Personnel Influenza Vaccination VA Form 10-9050 (Appendix B) and accompanying required documentation as applicable.

(2) Are required to wear a mask pursuant to paragraph 5 but refuse or fail to wear it as prescribed within the policies and procedures of this directive.

b. Compliance with this directive is a condition of employment. HCP in violation of this directive may face disciplinary action up to and including removal from federal service.

7. VACCINE SHORTAGE CONTINGENCY

a. In the event of an influenza vaccine shortage, VHA will determine an appropriate distribution plan for the resources available, as outlined in Appendix B of VHA Directive 1013(3) (Prevention and Control of Seasonal Influenza with Vaccines, September 20, 2019) or successor policy.

HEALTH CARE PERSONNEL INFLUENZA VACCINATION FORM

I am a VA: ___ Employee ___ Volunteer ___ Other (ex: Trainee, Resident, Intern, Fee Basis, or Researcher) Please indicate: _____

CHECK ONE STATEMENT BELOW AND COMPLETE AND SIGN THE LAST SECTION OF THIS FORM PRIOR TO SUBMISSION TO EMPLOYEE OCCUPATIONAL HEALTH:

I received the seasonal influenza vaccine this flu season (any required documentation is attached).

I have been granted a medical exemption from receiving the seasonal influenza vaccine this flu season. I have a contraindication for flu vaccine as defined by CDC. The reasons for contraindication must be recognized contraindications and precautions by the Centers for Disease Control and Prevention, found here: <https://www.cdc.gov/flu/prevent/whoshouldvax.htm>. This has been discussed and acknowledged by my personal physician. I understand that by declining to receive the vaccine by November 30 or within two weeks of beginning employment, I must wear a face mask according to requirements and guidelines within VHA Directive 1192.01, Seasonal Influenza Vaccination Program for VHA Health Care Personnel.

Printed Physician Name and Address

Physician Signature Date National Provider Identification Number

Supervisor Signature Date Supervisor Email

I notified my immediate supervisor in writing that I have a deeply held religious belief that prevents me from receiving the seasonal influenza vaccine this influenza season. I understand that by declining to receive the vaccine by November 30 or within two weeks of beginning employment, I must wear a face mask according to requirements and guidelines within VHA Directive 1192.01, Seasonal Influenza Vaccination Program for VHA Health Care Personnel.

Supervisor Signature Date Supervisor Email

August 10, 2020

I have read and fully understand the information on this form and have been given the opportunity to have my questions answered. I understand that violation of the directive may result in disciplinary action up to and including removal from federal service.

Name (print): _____ Last 4 SS# _____

Dept./Serv: _____

Employee Signature: _____ Date: _____

Employees and volunteers provide this form to the VHA facility Employee Occupational Health Office. Health Professions Trainees provide this form to the Designated Education Officer. Secure electronic submission is permissible.

From: [Martin, Kurt P.](#)
To: [Oscar L. Williams Jr.](#); [Milly Rodriguez](#); [Janice Blackwell](#); [PresidentLee@afgenvac.org](#); [NVAC Bargaining](#); [Bailey, Mark](#); [Weitz, Jonathan](#); [Irma Westmoreland](#); [Polnak, Christine](#); [Fiery, Kathy G](#); [Lee Blackmon](#); [Sarah Suszczyk](#); [Moore, Claudia](#); [Bill Wetmore](#); [Jeff Shapiro](#)
Subject: VHA Directive 1192.01 SEASONAL INFLUENZA VACCINATION PROGRAM FOR VHA HEALTH CARE PERSONNEL
Date: Monday, August 10, 2020 2:30:54 PM
Attachments: [Mandatory Vaccination Directive 1192.01_08102020_Final.docx](#)

Greetings all,

Attached you will find VHA Directive 1192.01 outlining its seasonal influenza vaccination program for VA health care personnel. The previous policy did not make mandatory the requirement for flu vaccines; it strongly recommended them. While the new policy requires all VA health care personnel to have their seasonal influenza vaccination by November 30, 2020, the policy also makes exceptions for medical reasons or deeply held religious beliefs.

Regards,



Kurt P. Martin | Labor Relations Specialist
U.S. Department of Veterans Affairs | Office of Labor-Management Relations (LMR)

Tel: (202) 809-7741 | Email: Kurt.Martin@va.gov

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**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
NATIONAL VETERANS AFFAIRS COUNCIL #53
Affiliated with the AFL - CIO
Mid-Term Bargaining Committee**

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President, AFGE Local 559
VAMC Orlando
Orlando, FL 32803

August 10, 2020

Michael Picerno, Acting Executive Director
Office of Labor Management Relations (LMR)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Subject: VHA Directive 1192.01 Seasonal Influenza Vaccination Program for VHA
Health Care Personnel

Dear Mr. Picerno:

In accordance with Article 47, Section 2, C, of the Master Agreement, the National VA Council #53 is formally demanding to bargain on VHA Directive 1192.01 as cited above within the Department. Please provide the NVAC's above named Mid-Term Bargaining Committee with any and/or all information/data concerning the cited above subject. The negotiations of this subject should normally begin no later than twenty (20) workdays after the Management's Chief Negotiator in this matter receives our demand to bargain.

Please cease and desist any implementation until the bargaining obligation has been met. The NVAC's Mid-Term Bargaining Committee may request a briefing over the cited subject above. If you have any questions, please call me at (217) 670-9357.

Sincerely,

Oscar L. Williams, Jr.
Chairperson, Mid-Term Bargaining Committee
2nd Executive Vice President
National VA Council #53

cc: Alma L. Lee, President National VA Council #53
NVAC Executive Committee

AFGE: Good Government We Are Ready