

DATE OF ORDER: AUGUST 17, 2021

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor and may be punishable by fine, imprisonment, or both. (California Health and Safety Code § 120275, et seq.)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF SAN BENITO (“HEALTH OFFICER”) ORDERS:

1. **Summary.** This Order of the Health Officer requires County of San Benito, City of Hollister and City of San Juan Bautista employees and contractors who provide Fire and Emergency Medical Services in San Benito County to have their first dose of a single dose regimen or second dose of a 2-dose regimen documented with their employer by September 30, 2021. Those not yet fully vaccinated shall immediately undergo at least twice weekly testing. Testing will not be allowed as a substitute for full vaccination after September 30, 2021. Additionally, this order requires all law enforcement personnel to provide documentation of vaccination to their employer or undergo weekly testing. All unvaccinated individuals must continue to wear facemasks in indoor settings.
2. **Effective Date and Time.** This Order takes effect at 12:01 a.m. on August 19, 2021.
3. **Basis for Order.**

a) Fire and Emergency Medical Services (EMS)

On August 5, 2021, California Department of Public Health issued an order requiring employees in high-risk health care and congregate settings to be fully vaccinated by September 30, 2021. (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx>). I have reviewed the Order and determined that the order is not sufficient enough to protect our community because Fire and EMS are critical to public health and safety and these groups regularly interact with high-risk health care and congregate settings as well as with medically vulnerable individuals in the community. **This order extends the CDPH order above to all Fire and EMS employees and contractors, except when the employer of record is the State or Federal Government, or contractor of the State or Federal Government.**

b) Law Enforcement (Law, Corrections, Probation)

On July 26, 2021, California Department of Public Health issued an order requiring employers of high-risk health care and congregate settings to verify the vaccine status of all workers and requires that unvaccinated or unverified workers be required to undergo routine surveillance testing (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx>). I have reviewed the Order and determined that the order is not sufficient enough to protect our community because all Law Enforcement, not just those individuals working in

congregate facilities (Jail) are critical to public health and safety and these groups regularly interact with high-risk health care and congregate settings as well as with medically vulnerable individuals in the community. **This order extends the CDPH order above to all Law Enforcement employees, except when the employer of record is the State or Federal Government, or contractor of the State or Federal Government.**

- c) This Order is being issued in light of SARS-CoV-2 Delta variant anticipated to become the dominant strain of the SARSCoV-2 virus in the United States, including the County, within weeks. This variant is more contagious and causes more severe illness than previous strains of SARS-CoV-2. With the easing of COVID-19 prevention restrictions since June 15, workers in Law Enforcement, Fire, and EMS now have potentially more exposure risk outside the workplace. Furthermore, the risk for this Personnel may exponentially increase should a disaster event occur in our community as we near wildfire season in our area.
 - d) Vaccination against COVID-19 is the most effective means of preventing infection with the COVID-19 virus, with the risk of infection reduced by 70 percent to 95 percent. Vaccination also appears to reduce the chance of transmission by an infected vaccinated person by 40 percent to 60 percent. The combination of reduced infection risk plus reduced transmission risk provides a very high level of protection for patients and residents who are in close proximity to a worker. In contrast, the wearing of face coverings reduces transmission by an infected person by about 70 percent; however, the combination of wearing face coverings and regular testing, followed by isolation of individuals who test positive, may approach the level of efficacy vaccination provides in terms of reduction of transmission risk.
 - e) Cal/OSHA Regulations generally allow documentation of vaccination status by self-attestation. I have determined that, for purposes of this Order, documentation of the vaccination status of people who work in Law Enforcement, Fire, and EMS must be based on more reliable documentation than a self-attestation. I have also determined that Fire and EMS personnel who meet the criteria and are not documented as Fully Vaccinated must be tested at least twice weekly for the presence of the SARS-CoV-2 virus. Unvaccinated Law Enforcement personnel must be tested at least once weekly.
4. **COVID-19 Test Requirements.** Except as set forth in Section 5 of this Order, an Employer shall require all of its Personnel to do the following:
- a) Receive a COVID-19 Test at least twice a week (Fire and EMS) or at least once a week (Law); and
 - b) Unless test results are sent directly to the Employer by the test provider, Personnel must promptly provide the results of each COVID-19 test to the Employer for Record-Keeping. Employer may confirm a positive antigen test with a confirmatory nucleic acid amplification test; Employer shall not use another antigen test to confirm a positive antigen test. Employer must exclude from work any Personnel who receives a positive antigen test until the Employer receives results from a confirmatory nucleic acid amplification test.
5. **Fully Vaccinated Personnel.** An Employer may exempt an individual member of its Personnel from the COVID-19 Test requirements set forth in Section 4 of this Order if the individual first presents to the Employer one of the following:

- a) COVID-19 Vaccination Record Card (issued by the CDC or WHO Yellow Card) which includes name of person vaccinated, type of vaccine provided and date last dose administered); or
 - b) a photo of a Vaccination Record Card as a separate document; or
 - c) a photo of the client's Vaccination Record Card stored on a phone or electronic device; or
 - d) documentation of COVID-19 vaccination from a health care provider; or
 - e) digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader client name, date of birth, vaccine dates and vaccine type. The QR code must also confirm the vaccine record as an official record of the state of California; or
 - f) documentation of vaccination from another Employer who is also subject to this Order. In the absence of knowledge to the contrary, an Employer may accept the documentation presented as valid. Personnel who are not Fully Vaccinated, or for whom vaccine status is unknown or documentation is not provided, must be considered not Fully Vaccinated and are subject to the mandatory COVID-19 vaccination requirements or COVID-19 Test Requirements (above).
6. **Record-Keeping Requirements.** An Employer must keep and maintain a record of the following information for the purpose of inspection by an authorized representative of the Health Officer:
- a) For Personnel who provide the Employer with documentation of Fully Vaccinated status in accordance with Section 5 of this Order: (1) Full name and date of birth; (2) COVID19 Vaccine manufacturer; and (3) date of COVID-2 Vaccine administration (first dose, and if applicable, second dose).
 - b) For other Personnel: COVID-19 Test results.
7. **Face Covering Requirement.** The employer shall exclude anyone from indoor work who is not fully vaccinated or for whom vaccine status is unknown or documentation is not provided, if that individual is not able to wear an FDA-cleared surgical mask or respirator in indoor work settings.
8. **Exemptions.** Employees may be exempt from the vaccination requirements under section (3) only upon providing the agency a declination form, signed by the individual stating either of the following: (1) the worker is declining vaccination based on Religious Beliefs, or (2) the worker is excused from receiving any COVID-19 vaccine due to Qualifying Medical Reasons.
- a) To be eligible for a Qualified Medical Reasons exemption the employee must also provide to their employer a written statement signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician stating that the individual qualifies for the exemption (but the statement should not describe the underlying medical condition or disability) and indicating the probable duration of the worker's inability to receive the vaccine (or if the duration is unknown or permanent, so indicate).
 - b) The agency's personnel officer shall make the final determination as to whether a claimed religious or medical exemption applies.

9. **Definitions.** For purposes of this Order, the following terms have the meanings given below.
- a) “CDC” means the U.S. Centers for Disease Control and Prevention.
 - b) “COVID-19 Test” means a nucleic acid amplification or antigen test to detect infection of a person with SARS-CoV-2, the virus that causes COVID-19.
 - c) “COVID-19 Vaccine” means a vaccine to prevent COVID-19 that is (1) administered under an emergency use authorization from the FDA; (2) approved by the FDA; or (3) listed for emergency use by the World Health Organization.
 - d) “FDA” means the U.S. Food and Drug Administration.
 - e) “Fully Vaccinated” means a person’s status two weeks following the person’s receipt of a single-dose COVID-19 Vaccine or the second dose of a two-dose COVID-19 Vaccine.
 - f) “Law Enforcement” means all law enforcement officers and administrative/clerical support staff working in (1) the San Benito County Sheriff’s Office; (2) any police department of a city within San Benito County County Corrections and Probation personnel in San Benito County, except when the employer of record is the State or Federal Government, or contractor of the State or Federal Government.
 - g) “Fire” means all firefighters and administrative/clerical support staff, including part-time, stipend and volunteers and contractors who provide fire services except when the employer of record is the State or Federal Government, or contractor of the State or Federal Government.
 - h) “Emergency Medical Services” and “EMS” means all prehospital emergency medical care personnel and administrative/clerical support staff, including but not limited to: authorized registered nurse or mobile intensive care nurse, emergency medical technician-I, emergency medical technician-II, emergency medical technician-paramedic, or a physician and surgeon who provides prehospital emergency medical care or rescue services including contractors providing these services on behalf of the County or City.
 - i) “Employer” means an employer of Law Enforcement, Fire, or Emergency Medical Services including contractors, in San Benito County, except when the employer is the State or Federal government.
 - j) “Personnel” means employees and volunteers of an Employer.
 - k) “WHO” means the World Health Organization.
10. **Copies; Contact Information.** Copies of the Order shall promptly be made available (1) at the County Administration Center (2) by posting on the County’s website and (3) to any member of the public requesting a copy.

IT IS SO ORDERED:



David Ghilarducci
Health Officer, County of San Benito

Approved as to Legal Form
San Benito County Counsel


