

Vacheria Keys ([00:00:00](#)):

Thanks so much Olivia and hello everybody. Welcome. We are almost to Friday. I don't know about you, but this week, like all weeks, seem very long. So my name is Vacheria Keys. I'm the Director of Regulatory Affairs here at NACHC. This is our third or fourth Vaccine Mandate Office Hours. And I do want to say this will be our last one for a while, but if you have any questions, always feel free to email me at regulatoryaffairs@nachc.org. So we have a great agenda today.

Vacheria Keys ([00:00:31](#)):

Next slide. We're going to hear from some amazing health center leaders. So we're going to do a quick overview of the phase three deadlines and implementation requirements. And then we will have a presentation from Rocking Horse Community Health Center, where we have Kent Youngman and Stacy Lee who will be presenting. And then we also will have a presentation from Rural Health Services where we have Gigi Lewis and she will also be sharing some tidbits.

Vacheria Keys ([00:00:58](#)):

So then we will do a brief Q and A, and then we will go to the top five questions for onboarding new employees under the vaccine mandate. And then we will talk about the OSHA ETS or new final standard that will be coming out for healthcare workers. Just to put that on your guys' radar. And then end with some more Q and A if we have time.

Vacheria Keys ([00:01:20](#)):

So first we'll go to this next slide and just want to give it refresh over the deadline. So if you are in group one, that means your state was not a part of the Supreme Court case. And that means, next slide, that you are now completely finished with the implementation deadlines as of this week. So at this point, all health centers that are our part of group one, your facilities should be working towards 100% compliance, which means that all of your employees or staff under the definition of the rule should have completed the primary vaccination series or have been approved for a medical or religious exemption. If you have not reached that phase, please work actively to get there as we don't want any health centers to be dinged on a survey, we have not seen any health centers be surveyed yet, but do want to make sure that all health centers are compliant.

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

Next slide. Then we have our group two states. These are the states that were a part of the Supreme Court case. So if you are part of group two, next slide, your implementation final deadline is April 14th. And that is the same, as you want to have 100% compliance, meaning that everyone is either completed their primary vaccination series, which means one shot for Johnson and Johnson or two for Pfizer and Moderna. Or your employees have all submitted and been approved for a religious or medical exemption.

Vacheria Keys ([00:02:47](#)):

And then lastly, next slide, Texas is on a little bit of a different compliance deadline. And their last deadline is April 21st. So wanted to give that refresher. So everyone knows where their state is, but we are all working to the point where just level setting, where do new employees fit in on the vaccine mandate. How are you supposed to onboard them, what are the requirements for new employees? And so based on this timeline at this point, anyone you're hiring, especially after this last implementation

deadline, needs to have completed the primary vaccination series or have had the ability to apply for an exemption. So some of our presenters are also going to get into some of that information today.

Vacheria Keys ([00:03:29](#)):

So next slide. So without further ado, I will turn it over to you, Stacy.

Kent Youngman ([00:03:36](#)):

I will kick things off.

Vacheria Keys ([00:03:38](#)):

Okay.

Kent Youngman ([00:03:38](#)):

That's fine. I'm Kent Youngman. I'm the CEO at Rocking Horse Community Health Center. Stacy Lee is Director of Operations and will be jumping in here in just a moment. Rocking Horse is a mid-sized community health center. We're located in Springfield, Ohio. That is in the Southwest part of the state. We have four locations in two different counties, approximately 200 employees and approximately 14,000 patients. So that just gives you a little sense of who we are and where we are located. Stacy's going to run through the slides here in just a minute, but just to provide a broad overview, we're going to begin by talking about how we started with the vaccination mandate with our staff and others. What process we went through and then where we are now. And when we finish at the very end of the different presentations, that'll be an opportunity for questions and answers. So Stacy, would you walk us through, please?

Stacy Lee ([00:04:41](#)):

Sure. Go ahead and advance the slide for me. So the first steps that we had of course is that we actually just determined that we wanted to go ahead and mandate the vaccine, actually, before it was a national mandate. So we had decided internally that it would be a good idea to get our folks vaccinated. So we consulted legal, created our policy and then worked to create those exemption forms and a procedure to review the requests.

Stacy Lee ([00:05:09](#)):

Next slide. Once we had that, we created some messaging for the staff. So we first reviewed what our efforts had been, which we stayed in touch with our staff. We had weekly COVID update meetings talking about everything that was going on within the organization. And so we just wanted to review with the staff. We had already put an incentive in place for our staff to get the vaccine. And so just reiterating that incentive was available to those who were fully vaccinated.

Stacy Lee ([00:05:42](#)):

Next slide. So this was our main message to the staff, just helping them understand why we wanted to do this. Again, we saw the writing on the wall and knew that it was probably coming as far as a national mandate, but regardless, we felt that it was important for all employees to be vaccinated. So we wanted to make sure that they understood what our practice was behind the decision and just what our thinking was as a leadership team to help improve the safety and health of our patients. We have a very large pediatric population. Over half of our patients are under the age of 18. And so at that time there was no

pediatric vaccination available. So we were really moving in that direction to keep all of those patients safe. Next slide.

Kent Youngman ([00:06:35](#)):

So just coincidentally, we had our all staff meeting and we made this announcement a few minutes before the President came out with his announcement about a national mandate. So our timing was pretty good in regards to that.

Stacy Lee ([00:06:51](#)):

Correct. So again, continuing to help folks understand what our are reasons we're behind that. This is actually one of the slides that we showed to staff, just trying to help them understand what the reasons were for us to require the vaccine.

Stacy Lee ([00:07:11](#)):

Next slide. So we of course stated that we are going to require it. Our submission date was actually November of last year. So we tried to lay the information out to help everyone understand what that meant, when you had to start getting the vaccine. This was actually a staff meeting that occurred, I believe in September. And so we gave folks plenty of time to be able to make a good decision or submit a request for exemption.

Stacy Lee ([00:07:47](#)):

Next slide. And so of course, just explaining that any of the vaccines would work. Again, these are just some of the same slides that we showed our staff. We also reiterated how all other safety measures will be in place. And that this vaccine is going to apply to all employees, contractors, volunteers, students, and new hires, regardless of their work location. The volunteers, this did include our board members. So those are volunteers for our organization. So everyone's included. Including, we have a lot of nurse practitioners, medical students, nurse students. So anyone who is coming to work would be required to have the vaccine.

Stacy Lee ([00:08:36](#)):

Next slide. So again, just citing some legal information. As we did consult our attorney, we were really following the EEOC guidance and ensuring that we were allowing exemptions for folks who have a medical disability or who would like to request a religious exemption. If they did not make that request or it wasn't approved, they would have to show proof of vaccination. And we just reminded folks that we have lots of staff who might be medical patients. And we reminded them that we, as an employee were, we're not going to go look in their medical chart. That was not... We don't do that. So they would have to submit that. So that was just a reminder to staff that we're not going to go into their own chart.

Stacy Lee ([00:09:25](#)):

So next section or next slide. And so this was just the process. We wanted folks to request an exemption. So they needed to follow this process to initiate their request. They would email one of the folks listed here, and then we would send them the exemption form. They would need to return that form with any supporting documentation. And we set a date of two weeks, I believe, we gave folks to return those forms. It was a soft deadline, but at least just a reminder. And then once we had those, we intended to review all of those requests and communicate back or ask for clarification, which we did.

Stacy Lee ([00:10:08](#)):

Next slide. And this was just our exemption response I thought I would share. So we did have three employees who voluntarily resigned. One actually resigned the day before the staff meeting. I think the writing was on the wall. People kind of knew what we might be talking about. We had a total of 18 requests and of that breakdown, three were medical conditions and 16 were religious exemptions. Just two requests required further clarification. And ultimately all of those requests were granted. They all were valid. We have those reviewed by our legal team. Our attorney reviewed all the requests for us and helped us to make those recommendations, but all requests were granted.

Stacy Lee ([00:10:59](#)):

Next slide. So once we granted those, we met with each employee to complete an interactive process to regarding accommodations. And some of the standard accommodations that we talked about are listed here. We are continuing to do weekly COVID testing and then masking and eye protection, all of those things. And then we did some office moves, some folks work remotely. So completing that process, we created an agreement with the employee, which they signed and they understand their responsibilities as part of that accommodation.

Stacy Lee ([00:11:39](#)):

Next slide. So most of the responsibilities as were the same as we discussed, some people might ended up being a little different. Some people cannot fully work remotely. So it just varied from employee to employee. And our responsibility as employer was to make sure that they have PPE, that they have the tests. So we supply rapid tests to our staff and then that we were citing the OSHA ETS rules related to protective barriers and those sorts of things. So that is still in place today with, with our staff who are unvaccinated, but have an exemption.

Stacy Lee ([00:12:21](#)):

Next slide. So for new employees, we actually already were mentioning some of our pre-employment items. When we talked with folks during a telephone phone screen, we just mentioned that we do have some pre-employment requirements, drug screening, background check. We already mandated the flu vaccine. So we just mentioned the COVID vaccine. We do ensure that all new candidates are informed that they're able to request an exemption if they would need that. But all new employees do provide proof of vaccination or request an exemption. So we do try to have that conversation just to let them know because we have some other pre-employment items that we require before they start work. So that seems to be going very well for us for new employees.

Stacy Lee ([00:13:15](#)):

Next slide. So just a few lessons learned. We did have some resignations, we had some early retirements, there was someone who cited that they were just burned out and just didn't want to do it and they were just kind of done. We also had to provide some reminders for who might not have wanted to complete their weekly testing requirement. It is on the employee to do that every week and share those results for us. That's our process. But there was a couple people that we had to remind to do that a few weeks in a row. And then we sat down and, again, had an additional conversation with them. So just knowing who's responsible to police that. And then we're preparing for what happens when we don't wear masks. Where the rest of the staff who are fully vaccinated might be able to go without masks. And then also just trying to create rules. Our policy does have rules around attending

outside training events. We have some sanctions on that if you're not fully vaccinated and of course compliance with that.

Stacy Lee ([00:14:22](#)):

Next slide. I think that's it for me.

Gigi Lewis ([00:14:30](#)):

Hi, how are you? I'm Gigi Lewis. I'm from Rural Health Services. And just want to talk to you all briefly today about our vaccine mandate rule out that we completed at Rural Health Services back in August of 2021, our board of directors signed policy essentially the same as Rocking Horse's stating that current employees, perspective employees, new hires, onboarding employees, contract staff, students, and volunteers would be required to meet our mandatory vaccine requirements. We did also make them aware at that time that they could apply for both medical and religious exemptions prior to that announcement.

Gigi Lewis ([00:15:16](#)):

However, Rural Health Services was actually incentivizing staff to receive their vaccine. We were giving staff at that time, a hundred dollars if they had completed their vaccine series. So we stopped that in July because we pretty much became stagnant at about 80% compliance with everybody receiving their vaccine. So we needed to push those numbers a little bit closer and to get our staff as fully vaccinated as possible. We had to put a mandate in place. So again, that board mandate or the policy came out. We provided notification to our staff. Human resources, basically, coordinated efforts for individuals that wanted to apply for either a religious or medical exemption. There was also committees that were established internally to review those applications.

Gigi Lewis ([00:16:11](#)):

We provide a meeting with each individual that re requested an exemption for them to be able to share their reasoning, whether religious or medical that they would be requesting to be exempt from the requirement, as well as our medical committee consisted of our CMO. It consisted of lead physicians from both our family medicine department, internal medicine, OB GYN. And then we also had our psychiatric nurse practitioner that served on that committee. And then our religious exemption committees was one of our employees as a pastor at a Baptist church locally. And then we had other people that were basically from different denominations, religiously that are representative of our community.

Gigi Lewis ([00:17:05](#)):

So those individuals were able to go before, essentially, their peers and explain why they, as though they would qualify for an exemption. Also, all of the exemptions were as well reviewed by an attorney. The organization did not have any exemptions that were actually qualified. So we are 100% vaccinated as far as staff members. And at the point of September 30th deadline, we actually only had two employees at that point that chose to separate from the organization voluntarily because they did not want to be vaccinated.

Gigi Lewis ([00:17:56](#)):

Going forward from a human resources perspective when we're recruiting, we are notifying individuals that we do have that mandatory vaccine requirement, as well as the fact that they can apply for exemptions. So far, we have not had anybody apply for an exemption as a new hire. Individuals that are vaccinated are required to bring their vaccine card with them to orientation. And we have not had anybody to show up yet that claim to be vaccinated that was not vaccinated. So we have not had to do any administrative action in regards to that. But so far, the staff have been very accommodating to the vaccine requirements and it rolled out a lot smoother than we expected for it to. And at this point I will turn it over to Vacheria.

Vacheria Keys ([00:18:52](#)):

Thank you so much. And so we do have a few questions in the chat box and some of them actually aren't covered in our top five questions for onboarding. So maybe we will just go through a few of them now. So sometimes we have folks joining on the phone. So I see Kent and Stacy answered a few questions, but I'll just read them out loud. So the first one was asking what your overall vaccination rate was in your county. And I think that's just helpful context for folks because knowing what you're working with in your local circumstances sometimes create additional challenges. So I don't know if... I put you guys together. I don't know if Stacy and Kent, you guys want to elaborate more on your local circumstances and maybe how that impacted the vaccination rate for your staff.

Kent Youngman ([00:19:40](#)):

Yeah, the overall county rate is just around 65%. The zip code in which we are located and the adjacent zip code is lower than that. It's just under 50%, I believe. Madison County or our county is going to be similar to the 65% rate. Did you have anything else to add Stacy?

Stacy Lee ([00:20:04](#)):

No, that's it for that one.

Vacheria Keys ([00:20:08](#)):

Great. And then also there's... And then Gigi, I don't know if you wanted to talk about your all's local circumstances in relation to your vaccination rate?

Gigi Lewis ([00:20:18](#)):

Our vaccination rates are very similar we're between 65% and 70%.

Vacheria Keys ([00:20:24](#)):

Okay, great. And then, so there's a question, do new hires have to have the requirement before they start, or is there a 30 day period acceptable to become compliant? So I guess that's in relation to hiring a new employee

Kent Youngman ([00:20:40](#)):

Stacy?

Stacy Lee ([00:20:41](#)):

Yeah. So we typically try to have them have their first dose prior to that first start date. We have had an employee get it on their first day of employment, because we do offer the vaccine here. And then that

way they're in compliance within 30 days. We have had a couple of new employees opt for the Johnson and Johnson, which we do not offer here. So they have gotten that before they've started employment. So 30 days is the typical timeline that we asked to be fully vaccinated if there's no exemption.

Vacheria Keys ([00:21:14](#)):

And so this is my own personal follow up question. Have you had any issues with a new employee saying they were going to get vaccinated and did not follow through?

Stacy Lee ([00:21:25](#)):

We actually have not. We have had a new employee start, who did request an exemption. I think that process went very smoothly. So they came in knowing that there was a mandate and just asked if there's an exemption process. We followed the same process that we would and they were able to start employment and then they received an exemption. So had that interactive conversation before they started and they knew everything coming in and it worked out very nicely. But we also have not had someone say they're going to get it and not be able to. We just haven't encountered that.

Vacheria Keys ([00:22:09](#)):

Okay. So I think we will pause with questions for here. And then we will go to the top five questions for onboarding. Thank you all for your presentation. So I'm going to invite Dianne back up here if she would like to join in the top five questions. So the first one is, when should we discuss the vaccine mandate during hiring? And I think both of our present patients discuss this, but it seems like best practice for health centers is try to be as transparent as possible as upfront as possible.

Vacheria Keys ([00:22:42](#)):

So if you would like to mention it in your LinkedIn post or on Craigslist, or Indeed it is very helpful to have that information on the job posting, sharing that throughout the different phases of hiring. So first round interview, a second round interview, just reminding that candidate that there is this federal vaccine mandate requirement, but they do have the option to apply for an exemption. But you want to discuss it so that you are not engaging in time and investing into a candidate and then you get to the end and they have no interest in getting vaccinated or maybe a applying for an exemption. So it's to the benefit of the health center as an employer, but then also the candidate to know that requirement exists. And Dianne, I don't know if you have anything else to add.

Dianne Pledgie ([00:23:25](#)):

I think that's right. And I think the presentations too demonstrated how throughout these health centers and other health centers, you've got folks who are interviewing applicants who know what the requirements are and that are articulate in that area. I think the concern comes during the application process. So during the interview process, the one place that it can get sticky and be a potential issue under the ADA. You can ask an applicant, whether they've been vaccinated, you can ask an applicant whether they can be vaccinated, but if they say, "No," you can't ask why. That's where it starts to get into the gray zone. So you want to be really careful in that place because the ADA will protect that medical information that an applicant might disclose at that point before there's a job offer made. The whole thinking there is that the ADA doesn't want employers to start discriminating against individuals because they have some medical condition or a disability during that application process.

Dianne Pledgie ([00:24:33](#)):

So you can ask them if they're vaccinated, you can ask whether they can get vaccinated. But if they say no, that's where this sort of conversation should stop in terms of keeping your health center safe. Because we don't have really clear guidance yet from the EEOC on that. And that would be the potential challenge for an applicant who said, "Well, you started to ask me questions during the interview process, that elicited medical information about me." And then that is the lawsuit, right? And that is the concern. But I think the Vacheria, you're right. And the presenters talked about this early and often talking about the vaccine being a requirement. And also that you do have a process for all employees to request an exemption.

Vacheria Keys ([00:25:22](#)):

Right. And then there's still the underlying question that people always say like, "Well, it's a HIPAA violation for you to ask if I'm vaccinated." And the employer and interviewee relationship does not warrant any HIPAA protections. That's between you as a provider and you as a patient. So people like to throw that out there and that does not apply to this scenario, correct Dianne?

Dianne Pledgie ([00:25:44](#)):

That is correct Vacheria.

Vacheria Keys ([00:25:47](#)):

Okay. We just like to always remind folks of that people love to throw out words and say things. But you as the employer feel empowered, that is not a HIPAA violation. Okay. So next question, do new employees... And this is me rushing... Do new employees need both shots or the booster before starting? And so we see that there can be different approaches in this and something we talk about, Dianne and I, as lawyers, is that there is the compliant answer and then there is the practical answer. And so I think Stacy, you are a great example of a practical answer. Which is if you're going through the interviewing process and that person might not be vaccinated, but they're showing a good faith to say, "Hey, we could get this one shot before I start. And then you give me this 30 days to complete the second shot," that is you working towards compliance.

Vacheria Keys ([00:26:41](#)):

And that is a best practice of real world hiring and trying to keep your workforce at a good number and a good level. And that every person might not be able to come on board already fully vaccinated or complete that series before you need them to start the job. So technically under the regulation, a new employee should have been fully vaccinated or completed the primary vaccination series. However, I have heard from a lot of health centers that have taken this approach of, if the person has at least one shot when they're starting and the health center has a very firm deadline that this is the deadline that you need to meet to be able to keep your employment. That is very common in the health center approach. Do want to draw the distinction that a booster is not required under the interim final rule to be compliant at all. The health center is required to track boosters. If the employees are sharing that information and they can ask. However, a booster is not required. Dianne, do you have anything to add?

Dianne Pledgie ([00:27:50](#)):

No, that was beautiful Vacheria.

Vacheria Keys ([00:27:51](#)):

Oh, thank you. And so there's also this underlining of what is compliant and what makes sense. And we are trying to figure out what makes sense under this regulation. And so there are hard and fast rules about compliance. When we come to thinking about for members. Board members are included in this regulation, regardless of how you would like to read it. It is explicitly mentioned in the rule and that's something that does not provide wiggle room. But we have had to work to an interpretation of what this means going through the phases of implementation and as you are trying to hire. And so these are places that you have some gray area that as you, as a health center have written in your policies and procedures, how you are going to onboard new staff and that you are, one day maybe surveyed, if this information and your approach is backed up in your policies and procedures, then that's your best faith effort as a health center to comply.

Vacheria Keys ([00:28:43](#)):

And that you could work through the process of at least saying, "Hey, well, this in our policies and procedures. CMS, if you don't like it, then we can change it after you let us know that." Similar to your process of getting reviewed for operational site visits, where if you find out that there's something that reviewer doesn't like, you have the opportunity to rectify it and change it. And so that goes the same way with onboarding new employees. We will learn more as surveys occur, but good faith effort and using best practices that is very common for some health centers to allow new employees to start with the one shot.

Vacheria Keys ([00:29:18](#)):

But as we get further into the implementation of the vaccine mandate saying by July people and best practices might change of what that looks like as this vaccine mandate will be out for longer. So it just depends on being flexible, where we are in implementation as we get new information from CMS. But as long as you're making a good faith effort and your approach is reflected in your policies and procedures, that's the best you can do as a health center when we operate in gray areas like this. Next slide.

Dianne Pledgie ([00:29:49](#)):

I think Vacheria, you're right. Technically the health center would not be in compliance with the vaccine mandate interim final rule. Right? And so then you as an organization, think about what that means in terms of your strategy towards risk or your thinking about risk. And so you think about, okay, well, how likely are we going to get surveyed on this in the 30 days while this new employee is waiting to get their next dose of the vaccine? What do we need to recruit this individual to come to our organization? And they're willing to do this, and how much do we have these other pieces in place where we are clearly certain that this person is going to come into compliance with our vaccine mandate requirement.

Dianne Pledgie ([00:30:35](#)):

And so you take that into account and you sort of say, "Technically, we're not in compliance here. So if we were surveyed would be a challenge to what we're doing. This is what we put in place to back up our decision making. And we've also decided to take that on this amount of risk." I mean, we see this with a lot of federal regulations, right? If anybody has to comply with 42 CFR part two for substance use disorder records, you're in that same place there a lot of times. You're trying to come as close to compliance as you can, without having to shut the doors to your organization. Same thing here, too, right? You're coming as close to compliance as possible and still being able to onboard staff and being

thoughtful about protecting other employees and your patients. And so you just, I think, get comfort in that gray zone in health center land.

Vacheria Keys ([00:31:27](#)):

Yeah, and then also the rule even says they want the employer to focus on people who have no shots versus the people who only have one shot. So it's a difference between you hiring someone who has not even started the primary vaccination series process versus someone who will complete it in a certain time period, but have started it and have one shot. So it's kind of like, there is no section of the interim final rule that says, "This is how you're supposed to onboard new employees." So we're piecing together parts of the regulation and guidance and survey guidelines to say, "Okay, this is probably the best approach." But this is all new, it's new for us. It's new for CMS. So we're doing the best that we can. And so this is why it's great to talk about, this is what's written in the rule, but this is how people are actually doing it on the ground to be able to have a full workforce, because we all know that there are so many workforce challenges right now, and that you want to fill these key roles.

Vacheria Keys ([00:32:25](#)):

So next slide. So can new staff apply for exemptions? We've talked about this and the answer is yes, and it's also legally required. This is something that does not have wiggle room because there are additional federal requirements outside of the vaccine mandate. The EEOC guidance that, I think Dianne even put a link in the chat for it. This is a federal requirement. And so just like existing staff and board members were entitled to apply for an exemption that same requirements extend to new staff. And this is something that you could run into some type of legal challenge for if you did not offer this opportunity to a new staff person or someone who you have maybe extended a offer to, and is contingent on them agreeing to comply with the vaccine mandate. So every staff person should have the opportunity to apply for a religious or medical exemption.

Vacheria Keys ([00:33:20](#)):

Next slide. Can a health center choose not to extend employment offer because the candidate is unvaccinated? I would love to hear our health center guests kind of weigh in on this as there's no hard, fast rule about it. And I think it definitely depends on the role that person is going to feel. Is that a patient facing role? Is it something that's virtual? Do they have their own office where people don't have to interact with them as much? It feels like a very much health center specific and role specific decision, but wondering, throwing it to our guests, if you guys have had to weigh this question, or you just keep it kind of open?

Gigi Lewis ([00:34:03](#)):

This is Gigi. We just kind of keep it open and fluid again. But we have not encountered this yet.

Kent Youngman ([00:34:10](#)):

I think that's the same thing. Isn't it, Stacy? We really haven't had that.

Stacy Lee ([00:34:16](#)):

I was going to say the same thing. If somebody is just straight refusing, then they're not going to be able to have employment because it's either vaccinated or an exemption. But we also have not encountered this situation because of what we're putting in place for those who are unvaccinated with an exemption.

Kent Youngman ([00:34:41](#)):

This kind of goes back to a question that came up when we were rolling this all out. Some folks were saying, "Well, you're requiring me to be vaccinated." And we said, "We're not requiring a vaccination, but we are making vaccination a condition of employment." So vaccination is a condition of employment and we have a rule or an outlet for exemptions. So to work here, these are the two things that are in place. And the same thing goes for the flu vaccine and various kinds of things like that. So we're not mandating the vaccine, but it is a condition of employment.

Vacheria Keys ([00:35:19](#)):

Yeah. And that's a good nuance as well. Because I know a lot of health centers we're trying to not use the word requirement and condition of employment is a more familiar term. It feels a little less heavy, maybe. So I know that's a distinction a lot of different health centers have to make in implementing the requirements. Okay.

Vacheria Keys ([00:35:43](#)):

Next question. Do the same requirements apply when recruiting new board members? The question is, yes. The vaccine mandate requirements apply to board members the same way applies it to staff. So if you unfortunately, maybe because of the vaccine mandate or other reasons have a few open board member seats, those new board members that you are recruiting and interviewing, possibly, will need to be explicitly told about the CMS interim final rule related to staff vaccinations and the requirements around that. We also heard that there is some different approaches to, well, maybe that one or two board members could stay virtual, but however, there are ways to make sure that everyone feels safe.

Vacheria Keys ([00:36:29](#)):

That same safety concern extends to board members, as well as to employees. Especially if your board members are coming on site. And then another important distinction is even when we are talking about our consumer board members, we're talking about them in their board member capacity, not their patient capacity. And so I know we've received a few questions about what does that mean when they're a patient of the health center and they also are a board member, but we're speaking about them in their board member capacity. And when they are attending events related to the health center and them being a board member. And Dianne, I don't know if you want to elaborate more on that. Nope?

Dianne Pledgie ([00:37:08](#)):

No, I think that's right. And that's the guidance that we've given. And then I know that some of the presenters were also talking about how they're going to be bringing boards back for hybrid meetings now. And so where you may have made an exception because everybody on the board was virtual for the last two years or so, now may be the time that you start to have those conversations with board members around in order to attend in person, vaccination requirements are in place. And otherwise you continue to join us virtually and your organization can decide whether that's meaningful participation. Obviously it's been happening for two years. So it's pretty... You've said it's meaningful for two years because everyone was virtual, but then you can also let board members make their own decisions too, related to whether they are going to keep their membership, if that requires vaccination or not.

Vacheria Keys ([00:38:03](#)):

And also board members are extended the same opportunity to apply for exemptions as well.

Vacheria Keys ([00:38:10](#)):

Next slide. So before we get to OSHA, we're going to get to a few questions that we received in the chat and some of our presenters, I think some of these questions be great to hear you guys weigh in as well. So one question is how are you tracking, working with contract staff? So construction crews, cleaning staff, and what has been your approach?

Gigi Lewis ([00:38:37](#)):

So we have some construction staff, however, they're not located any place close to our employees. So we still have mask requirements if you're in any of our facilities, but we have not necessarily been tracking. We've been getting kind of an assurance through a letter from the actual contractor, rather than asking individuals for their vaccine status. When it came to contracts that we have for janitorial services and people that are regularly within our facilities, we did not require to have proof of individual vaccine status, but we did require a certification from the employer that the staff that are within our centers have been vaccinated.

Stacy Lee ([00:39:26](#)):

I feel like Gigi and I had a conversation about everything we've been doing, but that's just about exactly what we have. We also have had some construction staff in and require as part of that contract, no individual are we trying to track like whomever they bring, but with the company that we're contracting with, they're required to help us with that. And then of course, they're not working directly right next to staff. So there is that distancing and then they are required to wear masks when in the building and such. So just about the exact same thing she said.

Vacheria Keys ([00:40:06](#)):

That's great. That shows that you guys are on the same page and probably more health centers are too. So that's not the first time I've heard about that approach, either. Another question, Stacy, you kind of talked about this in your presentation. It isn't a requirement to have weekly testing for unvaccinated staff, but it is a recommended accommodation for unvaccinated staff who have an exemption. When it comes to testing for your employees, is that happening at the health center or are they required to go offsite somewhere?

Stacy Lee ([00:40:39](#)):

Yeah, so we are supplying rapid test kits and they're required to complete them. We're not saying... They're welcome to do that, step away and do that during the day, we allow them the time to do their weekly testing. And then they just have to submit to a secure email. I believe they send the result of that. So it's on the employee to perform that. And then as I said, we add a few that sort of maybe weren't doing what they needed to do. So the supervisor had to meet with them and help them understand that this is part of your accommodation and you agreed to this. This is what you have to do. So, yeah, so it just occurs. We give them the test kit and then they perform the test themselves. But we allow them to do that during work hours. We give them the time to do that. As far as other employee testing, we do it on site, but that's if somebody needed to be tested for another reason,

Vacheria Keys ([00:41:47](#)):

Gigi, are you guys mind twins on this approach too? Or do you all maybe do it a little differently?

Gigi Lewis ([00:41:53](#)):

It's pretty much the same process.

Vacheria Keys ([00:41:56](#)):

That's good. Okay. This is an interesting question. Because I feel like I've received this often, are others allowing non-vaccinated staff, so staff who have exemptions, to perform direct patient care? This feels like a little bit of a tricky place that we have had to figure out to navigate. So very interested to hear from our presenters, what has been your all's approach.

Stacy Lee ([00:42:22](#)):

So for our staff, we do allow people to do direct patient care. They must follow a very precise procedure with wearing eye protection, N95 and all the precautions. But we have allowed that. I would say that there are a very, very small number of folks who do direct patient care that have interactions with patients that directly, just based on that. But we do allow that as long as they are following all of those precautions, which means that if they're in a well child visit, if it were a person doing that, they would have to wear an N95 every time and eye protection and all of that.

Stacy Lee ([00:43:05](#)):

So we actually just don't have too much of that going on because most of all, our direct care folks are fully vaccinated. We have not had questions from patients. I think there was another question about putting like a sticker or something on your name badge. We don't do that. We don't require anyone to do that. We have some people who voluntarily have put it on their person, but we don't require that as well. And we haven't had patients request a vaccinated person, if you will.

Gigi Lewis ([00:43:45](#)):

All of our staff-

Dianne Pledgie ([00:43:46](#)):

I'm glad you don't require your employees to do that, because that would be an issue. They be talking with your local council about that. So good job.

Vacheria Keys ([00:43:57](#)):

Gigi, were you going to say something?

Gigi Lewis ([00:44:00](#)):

I was just going to say that all of our employees that are direct patient care are 100% vaccinated. So we don't necessarily have the issue as far as making accommodations with what they're required to wear when they're in patient care. And we don't have a requirement, which is good because apparently it wouldn't be a good idea.

Vacheria Keys ([00:44:23](#)):

And so Dianne, can you elaborate a little bit more on why having a sticker that says, "I got my vaccine," could be challenging?

Dianne Pledgie ([00:44:33](#)):

So I think requiring that and the employer requiring that type of disclosure. Because an employee's vaccination status is protected by the ADA, the Americans with Disabilities Act, that's considered medical information. So you could have employees decide to do that on their own, but you issuing badges. And everybody with a red badge is not vaccinated and everybody with a green badge is vaccinated. That's going to be a potential challenge for an employer. So just being thoughtful about that.

Dianne Pledgie ([00:45:07](#)):

We saw some health centers that really wanted to have that process early on. And so we sort of rolled some of that back. There will be people in the health center who know their colleagues' vaccination status. You have managers who know their employees' status for all of the reasons, Stacy, that you were talking about. Because the manager then has to follow up if there's somebody with an exemption, who's not meeting the accommodation requirements that have been agreed to with the employee. But just being thoughtful that can be looked at as a disclosure of protected employee information. And so you want to be careful around that if you are requiring that employees have that type of an identification.

Dianne Pledgie ([00:45:47](#)):

We have had some health centers where patients have wanted to know the vaccine status of their provider. And so those health centers have said, "We can't disclose that." But we have had some health centers that have said, "93% of our staff members are vaccinated." Or they've provided that amount of detail to patients, or they've posted that type of information on their website because it doesn't identify a specific employee as vaccinated or unvaccinated.

Vacheria Keys ([00:46:16](#)):

Thank you for that. And so, just as a reminder, when we talk about staff with accommodations, there are no requirements of what you have to do with staff that are exempted, that are receiving accommodations, because they're unvaccinated. They're just recommendations. So it's based on what your health center thinks is the best approach, based on that person's role, how much they interact with other staff, patient care as well. So you can have an N95 requirement. You can have weekly testing, but that is not a requirement. It is just a recommendation by CMS and also best practices based on what we've heard today from our presenters and just other health centers that also have presented on office hours. These are common accommodations that are provided.

Vacheria Keys ([00:47:01](#)):

So there's an interesting question that we got in the chat. Are contractors who are not on site, but still providing direct patient care required to adhere to the mandate requirements? I'm assuming, you mean maybe if you have a referral type system. And so the vaccine requirement is for contractors that are on site at the health center, it does not extend to, let's say if you have a contract with the radiology practice, the vaccine mandate does not jump over to that facility, especially if it's a private practice. But Dianne, I don't know if you have maybe additional insight. You're on mute.

Dianne Pledgie ([00:47:47](#)):

Sorry. That would be my answer if we are understanding the question correctly.

Vacheria Keys ([00:47:50](#)):

Yes.

Dianne Pledgie ([00:47:52](#)):

If we have misunderstood the question, please follow up.

Vacheria Keys ([00:47:54](#)):

Please. Yes, but I think we did. Okay. And then, this is a very timely question, and then we'll move into OSHA. If we want to relax mass protocols in administrative spaces, but want a way to know if employees are boosted in order to remove their masks, are stickers on the badge recommended, if optional? And so let's take a step back and unpack that, because it's a lot in that one question, but I think a lot of good information. A lot of health centers have been asking, what about mask requirements? As we've seen, the CDC has changed mask guidance, the OSHA Emergency Temporary Standard, which used to require a certain level of mask was also lapsed in December, which we'll talk about in a little bit.

Vacheria Keys ([00:48:41](#)):

So it is up to a health center if you would like to start relaxing your mask requirements, there are no federal requirements governing how you have to approach that. It's definitely based on your health center. However, the sticker guidance that Dianne just gave still applies about, if you wanted people to have some type of sticker to say, "Hey, I'm boosted or not." If that's optional, that's a different thing, but you don't want to loosen your mask requirements because then everyone has to wear a sticker that says, "Hey, I'm boosted." That probably would run afoul with different things, but I'll open that up to others if they would like to comment.

Gigi Lewis ([00:49:25](#)):

For us, when people are in non-public areas, we allow them to be relaxed as far as wearing masks or mask protocols. And especially in our administrative suite. I'm one of those individuals, I think the CDC has just pounded it into my mind that whenever I'm in a group, I put on a mask, even though I've been fully vaccinated and boosted. So there are exceptions where individuals when we meet in large groups in administrative spaces, some of us will mask. Some will not be masked, but we don't necessarily hold the requirement that you also have to be boosted. And I probably wouldn't agree with putting a sticker on somebody's badge.

Dianne Pledgie ([00:50:16](#)):

I think we're going to have a follow up webinar on stickers on employee badges and what's allowed or not.

Vacheria Keys ([00:50:21](#)):

Okay. And then also I think Stacy, you answered this, but just when you're using the rapid test, you are requiring a email and a picture or does a staff person have to verify those results?

Stacy Lee ([00:50:36](#)):

I believe it's either one of those. It's sent to a secure email that somebody tracks who has completed those. Or they have to grab one of the staff. We have a couple designated people who are kind of, what I'll say, our COVID staff per se. They're part of our quality team. So they just have to report to those folks or show them that. I believe most people are sending a picture or just an email with the results. Some of

those rapid tests were proxied via... They were the... Oh man, I can't think of the manufacturer. But in the beginning... So they were getting a report that they could email. And so I would have to double check on what tests we have right this second. I'm out of that one, I don't see them myself. So we keep those pretty private, you know what I mean?

Vacheria Keys ([00:51:33](#)):

Yeah. That's helpful though. But you have a process set up and there is someone who is verifying it from the staff side. It's not just like, they take it and come back. It's like someone is trying to verify that you've tested. Which is how you can catch some people who might have missed a week. And you could go back and say, "Hey, can you please get tested?"

Stacy Lee ([00:51:52](#)):

Correct. And we supplied a lot of training for those to make sure that they were trained on how to do it. And I mean, could somebody put... I don't know, I guess they could put some water... I don't know. I'm not sure. I hope that they're not doing that. I don't think that's the case, but we don't require somebody to stand there and watch them do the entire test. No.

Vacheria Keys ([00:52:15](#)):

Yeah. And that's just honor code. And also you don't want employees to feel like they can't be trusted and you got to watch them do it. Okay. So we are going to go back. And then I see a question about, what about our 1099 employees? All employees. The staff definition under this interim final rule is very, very broad where it captures pretty much anyone who is entering the health center with the mindset of they work there. I just came up with that, but I feel like that's a volunteer, that's a trainee, that's a resident, that's a contractor. If this person is entering there not as a patient. It doesn't capture delivery people, or it gives the example of someone who's coming there for a one time, a rear thing like to repair your elevator. But if this person regularly comes into the health center, if they are providing some type of patient care or if they are a part of the administrative services at the health center, they fall under the definition of staff, which also includes board members.

Vacheria Keys ([00:53:19](#)):

Okay. So next slide. I mean, one back. Yes. Here we go. Thank you, Olivia. So if you guys remember last summer, there was an emergency temporary standard that came out for healthcare workers from the agency OSHA, which is the Occupational Safety and Health Administration. I hope I had the right letters. So we all know that OSHA was a little bit of a headache when it came out because we felt like it was 12 months too late. It had a lot of requirements just around providing PTO for staff to get vaccinated, to get tested, as well as making sure that all staff were entitled to paid time off if they tested positive for COVID as well as their requirements around PPE, having a COVID plan.

Vacheria Keys ([00:54:08](#)):

So that was an emergency temporary standard that, under the regulations that's issued in the last six months, and then the agency has to follow up and issue a final standard within that six month rule. So when they were ending that six month mark is when all the vaccine mandate issues were arising in court cases against OSHA, specifically around their broader vaccine mandate for all employers that had more than a hundred employees.

Vacheria Keys ([00:54:38](#)):

And so because of this timeline overlap, OSHA did not take any steps to finalize this emergency temporary standard and kind of pretty much let the heat die down. So here they are, again. Last week, they announced that they're preparing to issue a final standard for healthcare workers and have a reopening limited public comment period, as well as having public hearings. And so this we wanted to put on your radar because this was a big standard. It applied to health centers and pretty much all healthcare facilities. But there are opportunities for you as a health center to comment, if you would like to. To talk about if some of these requirements were too burdensome, if there was opportunities to be more aligned with other infectious control practices, like from the CDC. Also requirements around vaccinated workers, if they should be still required to wear an N95 or certain type of mask.

Vacheria Keys ([00:55:34](#)):

So there are opportunities moving forward to provide your perspective on how the OSHA ETS impacted you as a health center, you as a provider and other things around that way. And so I think on the next slide, we are still weighing if we would like to comment or we want to wait to see the final regulation. But in those last few minutes, I'll just throw it to Dianne to see if maybe she has any comments about this OSHA process and waiting for it to come down the pike.

Dianne Pledgie ([00:56:07](#)):

Thanks Vacheria, that was a nice handoff there to our earlier conversation about trying to digest what's in this. So there was a period to respond to the emergency temporary standard last summer. Most of us received the emergency temporary standard and started working on coming into compliance with that. And didn't really take the opportunity to comment on that standard. So what's happening now is OSHA has pivoted and said, "We're going to make a final standard in this area for healthcare workers." And so this is a chance for all of us, I think, to reflect back on what that emergency temporary standard was like in terms of implementation. There are places where OSHA is saying they are considering making the requirements more broad. And so perhaps it's that organizations have a COVID-19 plan, but it doesn't have to have all the various specific bullet points that fall underneath there.

Dianne Pledgie ([00:57:06](#)):

And so that would be an opportunity for a health center to say, we already had all of these things in place when you issued the emergency temporary standard. So we should have some flexibility here because we are addressing this pandemic and we're doing it in these X, Y or Z ways. So there's the opportunity to tell OSHA that these requirements should be more broad. Not necessarily the less burdensome, but more broad, and that there should be more ways that we could come into compliance with a final standard there's places where Vacheria, as you mentioned on your slide, that OSHA is saying, should we align with the CDC recommendations? And that is something, what we heard a lot from health centers and have heard since, that these things don't line up. I mean, Vacheria, we've talked about it a couple times too.

Dianne Pledgie ([00:57:52](#)):

Even what does fully vaccinated mean? It could be lovely if everybody could agree what we're going to consider fully vaccinated. And all of the questions that everybody's asking too, like, is it boosters? Is it not boosters? Like all of that? And so get this opportunity to signal to OSHA that, yes, we would love some clarity around that across agencies. Because that's what also happened when all these vaccine mandates came out in the fall is that CMS said, "Oh, we worked with the other agencies to make sure everybody was on the same page." And very quickly became clear that wasn't part of what it happens.

Dianne Pledgie ([00:58:25](#)):

But I think this is the opportunity to provide some real responses to OSHA about what this should look like going forward. And that many health centers were doing a lot of the things in the ETS, but had to sort of put those responses under the umbrella of the ETS very quickly. So there will be some changes. And as I said before, we went live on this. I'm interested to see what's in the final standard when it comes out. And so I think for now you sort of hold doing what you're doing because you can't do a lot of reading of the tea leaves if you look at what OSHA's asking for comments on, because it's anything and everything. So I think provide the comments, at least, they're hearing from folks on the ground who are trying to do this.

Vacheria Keys ([00:59:13](#)):

Thanks, Dianne. And so you can comment. If you click the link. The slides will be sent out right after the presentation. And so the link will directly take you to the press announcement where you also can go and see... It also includes all the links for where you could go comment and see what their inviting comments for. And if you have any questions, feel free to reach out to me and email me and we could chat about it some more. So I want to say thank you to our lovely presenters. You guys have been so informative today. We really appreciate it and really appreciate your time. We will also send out more information, but don't forget, you can look at the NACHC COVID-19 employee mandate page, where there's FAQs, there's links to the guidance, links to also our old webinars and other office hours. So thank you all so much for your time today and have a great week.