

10.1.2 This Part 10 applies only to hospitals, hospital units, ambulatory surgical centers, dialysis treatment clinics, or any other facility or agency that submits data to the national healthcare safety network, or its successor, that is licensed or certified by the Department pursuant to section 25-1.5-103, C.R.S.

## 10.2 Enforcement Activities

10.2.1 If the Department determines that a facility or agency is out of compliance with section 25-3-601, *et seq.*, C.R.S., it may impose any of the following enforcement activities, consistent with Part 2.11, above:

- (A) The Department may request, or require compliance with, a plan of correction,
- (B) Revocation of the facility's or agency's license,
- (C) Denial of the facility's or agency's application for license renewal, or
- (D) A civil penalty of up to \$1,000 per violation for each day the facility or agency is deemed to be out of compliance.

## PART 11. INFLUENZA IMMUNIZATION OF EMPLOYEES AND DIRECT CONTRATORS

### 11.1 Statutory Authority and Applicability

11.1.1 The statutory authority for the promulgation of these rules is set forth in sections 25-1.5-102, 25-1.5-103 and 25-3-103, C.R.S.

11.1.2 The requirements of this Part 11 shall be overseen and enforced by the Department in a manner consistent with Parts 2.10 and 2.11 of this Chapter.

### 11.2 General Provisions

11.2.1 Licensees and facility or agency employees and direct contractors have a shared responsibility to prevent the spread of infection and avoid causing harm to clients by taking reasonable precautions to prevent the transmission of vaccine-preventable diseases. Vaccine programs are, therefore, an essential part of infection prevention and control for slowing or stopping the transmission of seasonal influenza viruses from adversely affecting those individuals who are most susceptible.

11.2.2 Any employee or direct contractor who has the potential for exposure to clients of the facility or agency and/or to infectious materials, including bodily substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air are subject to this Part 11.

- (A) Such positions that may have the potential for exposure include, but are not limited to, licensed independent practitioners; students and trainees; individuals who directly contract with the facility or agency to provide services; home care personnel; individuals aged 18 or older who are affiliated with the facility or agency, but do not receive wages or other remuneration from the facility or agency; and persons not directly involved in client care but potentially exposed to infectious agents that can be transmitted to and from the individual providing services and clients of the facility or agency.

11.2.3 Facilities and agencies shall ensure that ninety percent (90%) of employees and direct contractors have received the influenza vaccine during a given influenza season. In order to demonstrate that the ninety percent (90%) rate has been meet, facilities and agencies shall:

- (A) By May 15th of every year, report to the Department, in the form and manner specified by the Department, the vaccination rate for employees and direct contracts for the most recent influenza season.
  - (B) Have defined procedures to prevent the spread of influenza from unvaccinated healthcare workers.
  - (C) Maintain for three (3) years the following documentation that may be examined by the Department in a random audit process:
    - (1) Proof of immunization, as defined at Part 1.46 of this Chapter, or
    - (2) A medical exemption signed by a physician, physician assistant, advanced practice nurse, or certified nurse midwife licensed in the State of Colorado stating that the influenza vaccination for the employee or direct contractor is medically contraindicated as described in the product labeling approved by the FDA.
- 11.2.4 Licensed hospitals, hospital units, ambulatory surgical centers, and nursing facilities shall provide or make available an annual influenza vaccine for employees and direct contractors when the influenza vaccine is readily available.
- (A) All other facilities and agencies shall ensure that employees and direct contractors are offered the opportunity to receive an annual influenza immunization.
- 11.3 Requirements for Hospitals, Hospital Units, Ambulatory Surgical Centers, and Nursing Facilities that Fail to Meet Vaccination Rate**
- 11.3.1 Each licensed hospital, hospital unit, ambulatory surgical center, and nursing facility that fails to meet the ninety percent (90%) vaccination rate for any given influenza season shall review its current written policy regarding the annual influenza immunization of employees and direct contractors to ensure that it addresses the following criteria, or create a written policy, if none exists:
- (A) Ensuring that the facility or agency has either of the following for employees and direct contractors:
    - (1) Proof of immunization, or
    - (2) A medical exemption signed by a physician, physician's assistant, advanced practice nurse or certified nurse midwife licensed in the State of Colorado stating that the influenza vaccination for that individual is medically contraindicated as described in the product labeling approved by the FDA.
  - (B) Ensuring that any employee or direct contractor who does not have proof of immunization wears a surgical or procedure mask during influenza season when in direct contact with clients and in common areas, as specified by the licensee's policy. Such masks shall be in addition to other standard personal protective equipment.
  - (C) Ensuring it has established a procedure to:
    - (1) Maintain proof of annual immunization or medical exemption for employees and direct contractors and
    - (2) Inform other individuals who provide services on the licensee's premises that are not employees or direct contractors of the following:

- (a) The licensee has a policy regarding the annual influenza immunization of its employees and direct contractors;
- (b) The licensee requires each employee and direct contractor who has not been immunized to wear a mask during influenza season when in direct contact with clients and in common areas specified by the licensee; and
- (c) The licensee has masks available for those who have not been immunized.

#### 11.4 Requirements for All Other Licensed Facilities and Agencies that Fail to Meet Vaccination Rate

11.4.1 Each licensee, other than those identified in Part 11.3, above, that fails to meet the ninety percent (90%) vaccination rate for any given influenza season shall perform an assessment of the facility or agency to assist in the development of a written policy regarding influenza transmission from its employees and direct contractors to clients. The assessment shall, at a minimum, consider the following criteria:

- (A) The number of employees and direct contractors at the facility or agency;
- (B) The number of clients served by the facility or agency;
- (C) Whether the facility or agency has an ongoing wellness program that offers annual influenza vaccinations;
- (D) Whether influenza transmission from employees or direct contractors is addressed in the facility's or agency's infection control policy;
- (E) What precautions are taken to prevent the transmission of influenza from unvaccinated employees or direct contractors; and
- (F) What type of educational material is utilized by the facility or agency to promote influenza immunization.

11.4.2 Each licensee that fails to meet the ninety percent (90%) vaccination rate, other than those identified in 11.3, shall review its current written policy regarding the annual influenza immunization of employees and direct contractors to ensure it addresses the following criteria, or create a written policy, if none exists, that is based on that facility's or agency's attributes and resources. The policy shall, at a minimum, address the following criteria:

- (A) Maintaining records of employees' and direct contractors' proof of immunization, or medical exemption from immunization; and
- (B) Ensuring that all of the licensee's employees and direct contractors are provided information regarding:
  - (1) The benefits and risks of influenza immunization;
  - (2) The availability of influenza immunization; and
  - (3) The importance of adhering to standard precautions.