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CLIENT BULLETIN

CAN PROBATION DEPARTMENT ASK FOR PROOF OF VACCINE?

June 21, 2021

Acting under the emergency powers granted him by the California Emergency Services Act, Governor Newsom last Thursday ordered Cal/OSHA's new workplace regulations on COVID-19 implemented immediately. The regulations allow most **fully-vaccinated employees to go without masks** provided they are willing to disclose their vaccination status to a supervisor. The rules do not, however, obligate employers to require proof of vaccination or obligate employees to disclose whether they have been vaccinated.

Under the revised Cal/OSHA guidelines, issued June 17, 2021, **employees who are unvaccinated or who decline to disclose their vaccination status** must continue to wear masks indoors, in company vehicles, and in settings where the risk of transmission and exposure is considered to be greater, such as public transit and detention facilities.

Employees who wish to work mask-free must attest to the employer that they have been vaccinated. The employer is required to document the employee's vaccination status but must keep it confidential. "Confidential" should mean the information can be shared only on a "need-to-know" basis, such as with a health care provider or department head in the event of a coronavirus exposure in the workplace. Employers are not required to copy the employee's vaccination card or have access to the employee's health records.

The new guidelines are not a license for employers, including public agencies, to ask all employees to disclose their vaccination status. Employees who do not want to reveal their vaccination status must be treated as unvaccinated but **cannot be disciplined or discriminated against** by the employer.

The guidelines are unlikely to be enforced by the state other than through **voluntary compliance**. Your local association should work with Probation Department management and County authorities to ensure compliance with the new state regulations.

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