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November 19, 2021

DPHSS Guidance Memorandum 2022-05

**RE: Amendments on Vaccination Requirements and Social Gathering Restrictions
Relative to Executive Orders 2021-20 and 2021-29**

The purpose of this document is to amend vaccination requirements and limitations on social gatherings and congregations, in accordance with Executive Orders No. 2021-20, and 2021-29 during the current Pandemic Condition of Readiness 3 (PCOR 3), which was declared by Executive Order No. 2021-16 on July 21, 2021.

This guidance document (the "Memorandum") rescinds Department of Public Health and Social Services ("DPHSS") Guidance Memorandum 2021-24 and supersedes all previous DPHSS guidance documents that are in effect, in whole or in part, including DPHSS Guidance Memorandum 2021-18 which contradict or conflict with Executive Order 2021-29 and this document. DPHSS issues this guidance pursuant to *Islan Guåhan* Emergency Health Powers Act, in particular, 10 GCA § 19601, which provides that DPHSS shall use every available means to prevent the transmission of infectious disease and to ensure that all cases of contagious disease are subject to proper control and treatment.

This Memorandum provides minimum requirements that Covered Establishments must comply with in order to operate. Covered Establishments may implement stricter policies, including but not limited to vaccination requirements, physical barriers, social distancing, and limited occupancy, subject to local and federal law. This information is not intended to serve as legal advice and should not be construed as legal advice. Covered Establishments should seek the advice of an attorney with regard to adoption of vaccination policies.

All businesses are strongly encouraged to allow teleworking when practicable.

This memorandum is effective 8:00 am November 20, 2021.

A. Definitions

For purposes of this Memorandum, the following terms have the meanings given below:

1. “Childcare Facility” shall mean any facility with a Sanitary Permit or licensed for home operation by DPHSS, which the primary function is to provide care and supervision to children for all, or part, of a twenty-four (24) hour day, whether or not the facility is operated for profit.
2. “Congregation” or “Social Gathering” shall mean a meeting for a common and singular purpose of more than one person where the individuals are not members of an Immediate Family Unit or Single Household Unit. This does not include funeral ceremony (both religious and non-religious); regular operations in places of worship; and meetings of businesses, organizations, or government agencies held for the purpose of carrying out official business of such entities in their place of business or off-site (including Covered Establishments).
3. “Contact Log” shall mean a written record of an individual’s name, contact information (phone number/email), date, and time of visit.
4. “Cosmetology Establishment” shall mean a business that provides shaving, clipping, trimming, singeing, shampooing, adorning, dressing, curling, waving, tinting, dyeing, or cutting of human hair; body massage; manicuring and pedicuring; and application of cosmetics; and shall include therapeutic massage establishments and tattoo shops.
5. “Covered Establishment” shall mean the indoor and outdoor premises of the following establishments where mask-use may be compromised:
 - a. Bingo halls
 - b. Boat cruises;
 - c. Bowling alleys;
 - d. Concerts and similar events;
 - e. Eating and Drinking Establishments with in-person, indoor/outdoor dining, except the following:
 - i. Eating and drinking establishments in schools, grades pre-K to 12;
 - ii. Mobile food service establishments (MFSE) and Temporary Food Service Establishment (TFSE), provided, such it is not part of an organized event and/or seating for dining purposes is not provided; and
 - iii. Catering establishments that provide off-site services at a private or public venue.
 - f. Food courts at Shopping Centers, or Malls, except the food courts located in the terminal building of the international airport for travelers screened by security, including passengers who are transiting, delayed, or departing Guam.
 - g. Gymnasiums, fitness centers, and dance studios;
 - h. Movie theaters;
 - i. Organized contact sports for training and competition, except school-sanctioned events;
 - j. Swimming pools;
 - k. Theaters and museums; and
 - l. Other Covered Establishments determined by DPHSS.

6. "Eating and Drinking Establishment" shall mean a business that prepares and serves food and/or beverage, such as a restaurant, bar, or tavern that possesses a Sanitary Permit from DPHSS.
7. "Employee" shall mean any person employed for compensation or otherwise by a business or organization, including, but not limited to, performers, volunteers, contractors, and subcontractors.
8. "Face Mask" shall mean a material that covers the nose and mouth and can be secured to the head with ties or straps or wrapped around the lower face. Face masks with exhalation vent(s), valve(s), or any device that allows unfiltered release of exhaled breath are highly discouraged.
9. "Face Shield" shall mean a personal protective equipment designed and worn to protect the wearer's entire face from hazards or potentially infectious materials. Face shields may be used in addition to a face mask. Face shield shall not be worn in lieu of a face mask.
10. "Funeral Ceremony" shall mean rosaries, wakes, visitations, viewings, burial, and/or other funeral services.
11. "Immediate Family Unit" shall mean individuals who are from the same family and are related to one another as either parent and child or sibling.
12. "Non-Contact Sports" shall mean sports that can be conducted while substantially maintaining appropriate social distancing, and any direct contact amongst participants are incidental to the activity. The following are non-contact sports and are not covered under this Memorandum:
 - a. Baseball;
 - b. Board sports (bodyboarding, longboarding, skateboarding, surfing);
 - c. Cricket;
 - d. Croquet;
 - e. Cross country;
 - f. Cue sports (carom billiards, pool, snooker);
 - g. Cycle sports (BMX, mountain bicycling, road bicycling);
 - h. Darts;
 - i. Golf;
 - j. Gymnastics;
 - k. Motorsports (ATVs, drifting, motorcycles, track racing);
 - l. Paddling sports (kayaking, stand up paddling);
 - m. Racket sports (badminton, table tennis, tennis);
 - n. Shooting sports (archery, practical shooting);
 - o. Softball;
 - p. Strength sports (bodybuilding, powerlifting, strongman, weightlifting);

- q. Track and Field;
 - r. Volleyball;
 - s. Water sports (diving, fishing);
 - t. Any other sport determined as non-contact by the Department of Public Health and Social Services.
13. “Organized Contact Sports” shall mean a sports activity, either for training or competition, that requires close proximity (i.e., within 6 feet) between players and may make it more difficult to maintain physical distancing. Examples include, but are not limited to, wrestling and basketball.
13. “Outdoor” shall mean an open area that may be covered to protect from the elements but shall not be enclosed by more than two walls.
14. “Pre-Kindergarten (Pre-K)” shall mean a classroom-based program for children 4 years of age, but excludes Childcare Facility.
15. “Shopping Center or Mall” shall mean a large building, usually indoors, that holds a group of businesses and services.
16. “Single Household Unit” shall mean individuals who may or may not be blood-related, but who reside in that same household.
17. “Swimming Pool” means any artificial structure, basin, chamber, or tank constructed of impervious material used or intended to be used for public swimming, diving, or recreational bathing and possesses a Sanitary Permit with DPHSS.
18. “Take-Out Order” shall mean an operation of an Eating and Drinking Establishment that allows patrons onto their premises to pick-up their ordered food.
19. “Vaccinated” and “Vaccination” shall mean having received the first shot of a recommended series of vaccination with a vaccine authorized to prevent COVID-19 by the U.S. Food and Drug Administration (FDA), including by way of an emergency use authorization, or by the World Health Organization (WHO). A list of FDA-authorized vaccines is available at <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines>. A list of WHO-authorized vaccines is available at <https://extranet.who.int/pqweb/vaccines/covid-19-vaccines>.

B. Vaccination Requirements

1. Covered Establishments shall require individuals, including guests, patrons, performers, employees, volunteers, participants, and coaches who are twelve (12) years plus 1 month of age and older to show proof that they are vaccinated to enter their facilities or premises, except for Eating and Drinking Establishments for outdoor

dining.

2. The following are acceptable proof of vaccination:
 - a. Self-attestation that the individual has received at least one shot of a recommended series of vaccination as provided in this Memorandum.
 - i. Covered Establishments that accept self-attestation as proof of vaccination must have guests, patrons, performers, volunteers, participants, and coaches acknowledge and sign the attached Self-Attestation Form (DPHSS Form SA-1), keep this Form on file for a period of 30 days, and submit it to DPHSS upon request. Covered Establishments are not required to accept self-attestation as proof of vaccination, and may impose stricter requirements than imposed herein.
 - ii. Pursuant to Title 9 Guam Code Annotated, Chapter 52 Section 52.20, a person who makes a false statement under oath which he/she does not believe to be true with the intent to mislead a public servant in performing his official function is guilty of a misdemeanor.
 - iii. Pursuant to Title 9 Guam Code Annotated, Chapter 52 Section 52.30, a person who, with intent to mislead a public servant in performing his official function, makes, submits or uses a written false statement of his own which he does not then believe to be true is guilty of a misdemeanor.
 - b. CDC vaccination card, which includes name of person vaccinated, type (name) of vaccine provided, and date of the last dose administered, or similar documentation issued by another foreign governmental jurisdiction; the unauthorized use of an official government agency's seal (such as the Department of Health and Human Services (HHS) or the Centers for Disease Control and Prevention (CDC) is a crime, and may be punishable under Title 18 United States Code, Section 1017, and other applicable laws;
 - c. Photo or copy of a vaccination card as a separate document;
 - d. Photo of the vaccination card stored on a phone or electronic device;
 - e. Documentation of vaccination from a healthcare provider;
 - f. Printed WebIZ documentation of vaccination information;
 - g. Copy of personal digital COVID-19 vaccine record or similar documentation issued by DPHSS, another State, local, or foreign governmental jurisdiction;
 - h. Proof of medical or religious exemption to vaccination issued by DPHSS; or
 - i. Other proof as approved by DPHSS.
3. Prior to entry into the facility, Covered Establishments must verify the vaccination status of each individual who intends to utilize the indoor portions of the facility.
 - a. Individuals who do not provide proof of vaccination as required may not use indoor portions of such facilities except to order, pick up, or pay for food or drink for take-out orders, provided such individual properly wears a face mask.
 - b. Covered Establishments are prohibited from serving any individual who fails to provide proof of vaccination as provided herein.

4. Organizers of contact and non-contact sports events and activities must refuse to allow coaches and participants twelve (12) years plus one (1) month of age and older who fail to show proof of vaccination status as provided herein from participating in any contact and non-contact sports, trainings, or competitions.
5. Subject to the exceptions below, and any applicable federal or local laws requiring accommodation, Covered Establishments must ensure all employees who routinely work onsite provide proof that they are vaccinated before entering or working in any facility.
 - a. Consistent with applicable privacy laws and regulations, Covered Establishments must maintain records of employee vaccination or exemption status, and provide these records to DPHSS promptly upon request, and in any event no later than the next business day after receiving the request.
 - b. Individuals who deliver goods or packages are not subject to the requirements stated herein.
 - c. In the event an employee of a Covered Establishment declines to receive a COVID-19 vaccination or provide proof of such vaccination, they will be required to undergo and submit proof of a negative COVID-19 test once weekly. The Covered Establishment must maintain records of test results for a period of not less than 60 days.
 - d. Individuals seeking a medical or religious exemption to vaccination shall submit an official request with supporting document(s) to publichealth@dphss.guam.gov, or delivered to Immunization Program of DPHSS, located in Castle Mall, Unit #9, 130 University Drive, Mangilao, Guam 96913, from 8:00 am to 12:00 pm., Monday through Friday except recognized Government of Guam holidays. Employee may continue to work while waiting for issuance of DPHSS exemption. Employees who receive medical or religious exemption shall be required to undergo a COVID-19 test once weekly.
 - e. Any employee who fails to provide a proof of vaccination or a valid exemption to vaccination shall be required to undergo a COVID-19 test once weekly.

C. Signage

1. For Patrons
Covered Establishments must post a sign in a conspicuous place that is viewable by prospective patrons prior to entering the establishment. The sign must alert patrons to the vaccination requirement in this Memorandum and inform them that employees and patrons are required to be vaccinated.
2. For Employees
Covered Establishments are required to post signs in employee break rooms, restrooms, locker rooms, meeting rooms, or similar areas informing employees that they are required to provide proof of vaccination, and informing them how to obtain additional information about getting vaccinated.

D. Congregations and Social Gatherings

1. Congregations and social gatherings shall be limited to no more than twenty-five (25) persons for indoor activities, or no more than seventy-five (75) persons for outdoor activities. This shall include patrons, guests, participants, vendors, and employees.
 - a. There shall be no more than ten (10) persons per group or table indoors, or no more than twenty-five (25) persons per group or table outdoors. However, for Covered Establishments, everyone indoor must be vaccinated.
 - i. A group of twenty-five (25) persons may congregate indoor at one time, provided no more than ten (10) are seated per table.
 - ii. A group of seventy-five (75) persons may congregate outdoor at one time, provided no more than ten (10) are seated per table.
 - b. Each group or table shall be separated by a minimum of six (6) feet physical distance. When it is difficult to maintain a six (6) feet distance between groups or tables, physical barriers, which separate each group, must be installed. The top horizontal edge height of physical barriers must not be less than the top of the head of the tallest person of the group.
 2. Organizers of events, such as sporting events, concerts, outreach activities, night markets, fiestas, food truck rallies, and other similar events are responsible for implementing and enforcing the minimum requirements in applicable DPHSS Guidance Memorandum and this document.
 3. Unvaccinated individuals twelve (12) years plus one (1) month of age and older may not participate in social gatherings with individuals who are not members of their household in Eating and Drinking Establishments for indoor dining.
 4. Children under twelve (12) years and (1) one month of age may attend social gatherings.
 5. A party/group of individuals numbering twenty-six (26) or more for indoors, or seventy-six (76) or more for outdoors, shall not attend or participate in the same event by claiming to be separate party/group to circumvent Executive Order 2021-29 or this Memorandum.
 6. The provisions stated in Part D. above shall apply to congregations and social gatherings in all public and private settings, including Covered Establishments, unless expressly exempted in this Memorandum.
- E. Covered Establishments shall follow applicable requirements of DPHSS Guidance Memorandum 2021-18, which does not contradict or conflict with Executive Order 2021-29 and this Memorandum, for face masks; contact logs; cleaning, and disinfection of surfaces; and handwashing and respiratory etiquette.

1. Covered Establishments shall implement and enforce wearing of face masks by all individuals ages 2 years and older, including guests, patrons, performers, employees, volunteers, participants, and coaches at all times while on their indoor and outdoor premises, except when:
 - a. Actively eating or drinking;
 - b. Engaged in physical activity, such as exercise or sports; and
 - c. A mask would create a risk to an individual's health, safety, or job duty, such as during live singing performances, playing wind instruments, and similar activities.
2. Contact Logs shall be required in all Covered Establishments, Cosmetology Establishments, K-12 schools, and childcare facilities.
3. Contact Logs must include list of each individual's name, contact information (phone number and/or email), date, and time of visit.
4. This record must be maintained for a period of 30 days from the date of service and must be submitted to DPHSS upon request.

For further questions, please contact the Division of Environmental Health at 300-9579 from 8:00 am to 5:00 pm, Monday through Friday, or email, dphss-deh@dphss.guam.gov.


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