



## HEALTH OFFICER ORDER NO. 23-03

### ORDER OF THE HEALTH OFFICER OF THE COUNTY OF ALAMEDA

#### MANDATORY MASKING OF STAFF IN HEALTHCARE FACILITIES; SUSPENSION AND RECISSION OF PRIOR HEALTH OFFICER MASKING ORDERS

*Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code §§ 120175, 120295; Cal. Penal Code §§ 69, 148(a)(1))*

**EFFECTIVE DATE: 12:01 a.m., November 1, 2023**

**Summary:** To combat the spread of COVID-19, Influenza (flu), and Respiratory Syncytial Virus (RSV) to vulnerable patients and residents, and to minimize the associated risk of severe illness and death among these persons, this Order requires operators of specified Health Care Facilities in the County of Alameda to implement a program to ensure that Staff wear high-quality, well-fitting masks whenever they are in patient care areas in the facility, regardless of vaccination status.

This Order will go into effect on November 1, 2023, and end on April 30, 2024, unless the Health Officer adjusts the dates based on virus surveillance data.

**Background:** The fall and winter of 2022-2023 saw substantial waves of RSV, flu and COVID-19, and [a similar pattern is expected this year](#). These viruses typically circulate and peak in Alameda County during the late fall and winter months. COVID-19, flu, and RSV can cause life-threatening infections in persons more likely to experience severe disease such as older adults and other people with weakened immune systems, groups which make up a large portion of Health Care Facility patients and residents. Over 17% of the Alameda County residents who have died from COVID-19 since 2020 were Skilled Nursing Facility (SNF) residents, despite representing less than 0.5% of the County population. From November 2022 through April 2023, over 700 adults ages 60 and older were hospitalized for COVID-19 disease in Alameda County and 122 adults in this age group died from COVID-19.

Across California, there were over 5,400 deaths among people 65 and older with COVID-19, flu, or RSV reported as an underlying or contributing cause of death during the 2022-2023 winter respiratory virus season. Despite widespread availability of safe and effective vaccines and treatments, 87% of these deaths were due to COVID-19. In past winters, as the community burden of COVID-19 increases, COVID-19 outbreaks in Alameda County Health Care Facilities increase in frequency and size, and influenza-like illness outbreaks were common in Skilled Nursing Facilities even before the COVID-19 pandemic. COVID-19 is also known to spread from people who are asymptomatic or presymptomatic, and several studies have indicated that many health care facility Staff work while experiencing symptoms of respiratory illness.



This Order requires that Staff wear masks in inpatient facilities and certain high-risk outpatient facilities during peak respiratory illness season. Wearing well-fitting, high-quality face masks can help reduce the spread of respiratory viruses and can provide an additional layer of safety for the large number of highly vulnerable patients and residents of inpatient health care facilities when respiratory viruses are most likely to cause infections and illness. Since overlapping seasonal waves of respiratory viruses can strain the County health care system and workforce, all Health Care Facilities and Clinics should also strongly consider other actions, including policies that encourage COVID-19 and influenza vaccination for staff and masking for visitors, to limit the impacts on patients, residents, and Staff this coming respiratory virus season.

Although this Order is directed to Staff at Health Care Facilities, the Health Officer strongly recommends that everyone take appropriate protections based on their situation, including the following five measures: 1) following the CDC's most current COVID-19, flu, and RSV vaccine guidance; 2) wearing a well-fitted mask in appropriate settings based on personal risk factors, especially if you or someone you live with is vulnerable to the worst outcomes of COVID-19; 3) staying home whenever you feel sick in order to protect others around you and following the CDC's and the State's isolation and quarantine guidance; 4) staying aware of medications that you can use when you get sick with COVID-19, including drugs like Paxlovid that can decrease the severity of infection, especially for anyone over 50 years old or who has other risk factors; and 5) remaining aware of information about COVID-19 and other respiratory illnesses.

## **ORDER**

### **UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTION 120175, THE HEALTH OFFICER OF THE COUNTY OF ALAMEDA ("HEALTH OFFICER") ORDERS:**

#### **A. Masking Order**

1. All Health Care Facilities must, by November 1, 2023, implement a program to ensure that all Staff wear high-quality, well-fitting masks whenever they are in patient care areas regardless of the Staff member's vaccination status. For health care settings not covered by this Order, the Health Officer strongly recommends Staff masking in patient care areas.
2. For purposes of this Order:
  - a. "Health Care Facility" means licensed General Acute Care Hospitals, Long Term Acute Care Hospitals, Psychiatric Hospitals, Skilled Nursing Facilities, Dialysis Centers, Infusion Centers, and any other Facility directed to follow this Order by the Health Officer.
  - b. "Staff" means Health Care Facility employees, volunteers, contractors, and emergency responders who provide services at the Health Care Facility,



regardless of whether patient and resident care or contact are ordinarily part of the Staff member's duties.

- c. "Patient care areas" mean any rooms or workspaces where patient care is routinely delivered to inpatients or residents, or patients under observation for possible admission, including but not limited to patient and resident rooms, inpatient radiology facilities, surgical suites serving inpatients, and emergency departments, or any other areas where Staff may come into direct contact with patients or residents routinely receiving care. For the purposes of this Order, patient care areas do not include those areas specifically serving outpatients, such as outpatient clinics, outpatient laboratories, outpatient radiology facilities, and ambulatory surgical centers, nor do they include areas in which patient care may occasionally happen, for example during emergency resuscitations, but which are not specifically intended for patient care, such as nursing stations, cafeterias, hallways, or vestibules. For the purposes of this order, charting rooms, break rooms, and offices are not considered patient care areas. Emergency vehicles and other medical transport vehicles are not covered by this order. Under this Order, when a facility location is not clearly a patient care area as defined in this paragraph, facility administrators have the discretion to determine the nature of that location.
  - d. "High-quality, well-fitting mask" means, by way of example, surgical masks or non-vented N95, KN95, and KF94 respirators. A well-fitted non-vented N95, KN95, or KF94 respirator is strongly recommended, even if not fit-tested, to provide maximum protection. A scarf, ski mask, balaclava, bandana, neck gaiter, turtleneck, collar, cloth mask, or any mask that has an unfiltered one-way exhaust valve does not qualify as a face mask under this Order.
3. Health Care Facilities may excuse the following Staff from masking:
- a. Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. Health Care Facilities may determine the best way to implement such exemptions for their workforce.
  - b. Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication. Removing a mask briefly to ensure proper communication with any patient, resident, or visitor will not be considered a violation of this Order but masks should be worn again as soon as possible.
  - c. Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.



4. This Order does not require patients, residents, or visitors to wear masks, although masks are strongly recommended in Health Care Facilities for all patients, residents, and visitors not covered by these requirements when around others. Masks are also recommended for Health Care Facility Staff in non-patient care areas of the Facilities.
5. Nothing in this Order precludes Health Care Facilities from implementing masking requirements more stringent than those described in this Order, and nothing in this Order prevents individuals not subject to this Order from wearing masks while at a Health Care Facility. Additionally, nothing in this Order excuses Health Care Facilities or Staff from complying with more stringent standards established by state or federal laws and regulations.
6. This Order is **mandatory** for all specified Health Care Facilities within the County of Alameda's Local Health Jurisdiction, including those located in all incorporated cities and unincorporated areas, with the exception of those in the City of Berkeley, which maintains a separate local health jurisdiction with a separate health officer.

## **B. Suspension or Rescission of Prior Orders**

### **1. Suspension of Flu Masking Order**

Effective September 20, 2023 at 12:01 a.m., Order No. 20-16b (requiring health care workers to receive annual flu vaccinations or wear masks) is suspended until further Order of the Health Officer.

### **2. Rescission of Masking Order for Skilled Nursing Facilities**

Effective at 11:59 p.m. on October 31, 2023, Order No. 23-02 (requiring staff in Skilled Nursing Facilities (SNFs) to wear masks in patient care areas) is rescinded in full.

## **C. Additional Provisions**

1. Under Government Code Sections 26602 and 41601 and Health and Safety Code Section 101029, the Health Officer requests that the Sheriff and all Chiefs of Police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
2. This Order shall be effective at 12:01 a.m. on November 1, 2023. Unless expressly modified or rescinded, this Order shall remain in effect until April 30, 2024.
3. Copies of this Order shall promptly be: (1) made available at the County Administration Building at 1221 Oak Street, Oakland, California 94612; (2) posted on



the County Public Health Department's website (acphd.org); and (3) provided to any member of the public requesting a copy of this Order.

4. If any provision of this Order or its application to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

**IT IS SO ORDERED:**

A handwritten signature in black ink, appearing to read 'N. J. Moss', written over a light gray rectangular background.

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Nicholas J. Moss, MD, MPH  
Health Officer of the County of Alameda

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September 19, 2023  
Date