



ORDER OF THE HEALTH OFFICER No. C19-19

**ORDER OF THE HEALTH OFFICER
OF THE CITY AND COUNTY OF SAN FRANCISCO ALLOWING MINORS TO
CONSENT TO RECEIVE THE COVID-19 VACCINE AND ALLOWING VACCINE
PROVIDERS IN THE CITY TO RELY ON THAT CONSENT**

(PUBLIC HEALTH EMERGENCY ORDER)

DATE OF ORDER: April 28, 2021

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 § 120295, *et seq.*; California Penal Code §§ 69, 148(a)(1); and San Francisco Administrative Code § 7.17(b)).

Summary: The ongoing Coronavirus Disease 2019 (“COVID-19”) pandemic has caused untold social and economic consequences across the world. At this point in the pandemic, there are multiple vaccines that have been authorized by the United States Food and Drug Administration (the “FDA”) for emergency use to protect against moderate to severe clinical outcomes of infection by SARS-CoV-2, the virus that causes COVID-19. In the coming months, not only is it likely that the authorization for such vaccines will be expanded (both in terms of the numbers of vaccines but also in terms of non-emergency approval), but it is also likely that the age range of those who are authorized to receive the vaccine in the United States will be expanded to allow for more minors to receive the vaccine. And although many people have received the COVID-19 vaccines, it is critical from a public health perspective that as many people as possible, including minors, receive the vaccine. Minors under the age of 18 are showing increasing numbers of infections, and California law does not generally allow such minors to consent to receipt of the vaccine even though the State considers the vaccine to be general medical care and national pediatric groups recommend the vaccine for those 16 years of age and older. Many minors have a parent, guardian, or other person with legal authority who will consent to their receipt of the vaccine, but that is not true in all situations. It remains vital to the health of all in the community—including adults who cannot or will not receive the vaccine as well as people who have been fully vaccinated (due to the ongoing possibility of breakthrough infections)—that every person, including minors, who wants to receive the vaccine be given the opportunity.

For those reasons, this Order does two things. *First*, it allows minors in the City and County of San Francisco (the “City”) who are 12 years old or older to consent to receive any vaccine against COVID-19 that has been authorized by the FDA (whether authorized on an emergency use basis or fully approved) for receipt by someone who is the age of that minor. The healthcare provider administering the vaccine dose must reasonably attempt to notify a person with legal authority to consent to medical care for that minor, such as a parent or guardian, and allow that person the opportunity to object to



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administration of that dose. This ability to consent is similar to the concept used elsewhere in state law that minors 12 years old or older may consent to the diagnosis or treatment of infectious diseases, including specifically COVID-19, without parental consent. Allowing prevention of the disease via vaccination is just as important as allowing a minor to be tested for that disease or to be treated for it. *Second*, this Order allows but does not require providers who are authorized by the State of California to administer an FDA-authorized or approved COVID-19 vaccine to administer such a vaccine to any minor in the City who is 12 years old or older and who provides consent consistent with this Order. For sake of clarity, this Order only applies to minors 12 years old or older and healthcare providers who are in the City at the time the vaccine is administered. This Order does not authorize giving a vaccine to a minor if the vaccine is not authorized or approved by the FDA for a person that age. And this Order does not mandate notice to a parent or guardian in the case of a minor who is emancipated or self-sufficient and is otherwise allowed by California law to consent to receipt of a COVID-19 vaccine.

**UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE
SECTIONS 101040, 101085, 120175, AND 120176, THE HEALTH OFFICER OF THE
CITY AND COUNTY OF SAN FRANCISCO ORDERS:**

1. Purpose and Findings.

- a. Purpose and Intent. The City, in cooperation with the federal government, the State of California, and private healthcare providers, is administering vaccines to combat COVID-19. As of April 28, 2021, the FDA has issued an Emergency Use Authorization (“EUA”) for three COVID-19 vaccines, including the Pfizer-BioNTech COVID-19 vaccine for use in people 16 years of age or older. Pfizer has also applied to the FDA for an EUA to administer its vaccine in adolescents between the ages of 12 to 15 years. Other vaccine manufacturers are conducting clinical trials for administration of COVID-19 vaccines in youth and adolescents. Scientific evidence submitted to the FDA indicates that the vaccine currently approved for use in minors between 16 and 17 years of age is safe and highly effective in preventing infections, and any future FDA authorizations for vaccinations used to prevent COVID-19 in minors should similarly meet those standards. Although serious illness from COVID-19 is less common in minors than in older adults, vaccinating minors is necessary to prevent as many infections as possible. Scientific evidence further indicates that broad community access to COVID-19 vaccines offers the clearest and quickest path to reduce the number of COVID-19 cases and to bring the pandemic to an end. This is essential for many reasons, including that some adults either cannot or will not be vaccinated, and in addition there are documented cases of breakthrough infections where people contract COVID-19 despite being fully vaccinated. Broad community access must include children and adolescents once the FDA approves a COVID-19 vaccine for those ages.



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With some exceptions, a parent or guardian must consent to a minor's medical care in order for a healthcare provider to treat that minor. In many cases, a parent or guardian will be available to provide the consent necessary to allow healthcare providers to administer a COVID-19 vaccine. But in some cases, it may be difficult to obtain the consent of a minor's parent or guardian. For example, consent may not be easily obtainable if the parent or guardian resides outside the City's jurisdiction (including outside the United States) or the minor resides with a relative who does not have authority to consent to a minor's medical care and the parent or guardian cannot be reached. Accordingly, if children and adolescents are unable to consent to receive an FDA-approved or authorized COVID-19 vaccine, then a segment of the population will remain at risk for contracting COVID-19, especially if and when children and youth return to in-person schooling. There is also a concern that new variants of the virus, such as those found in the United Kingdom, Brazil, and South Africa, are spreading in California, which in turn puts unvaccinated people, including children and adolescents, at risk.

The intent of this Order is to allow minors 12 years of age and older who desire to receive, and are otherwise eligible to receive, a COVID-19 vaccine to consent to a COVID-19 vaccine, even if they lack the consent of a person who is legally authorized to make healthcare decisions for the minor, such as a parent or guardian. This Order is necessary to effectively prevent and control the spread of COVID-19 in our community and reduce barriers to accessing approved or authorized vaccines.

- b. Interpretation. All provisions of this Order must be interpreted to effectuate the purpose and intent of this Order, as described in subsection 1.a above. Certain initially capitalized terms used in this Order have the meanings given them in Section 4 below or elsewhere in this Order. Initially capitalized terms not otherwise defined in this Order are defined in Health Officer Order No. C19-07v (the "Stay-Safer-at-Home Order"), including as it may later be amended.
- c. Continuing Severe Health and Safety Risk Posed by COVID-19. This Order is issued based on evidence of continued community transmission of COVID-19 within the City, throughout the Bay Area, across California, and across the United States; evidence that most COVID-19 infections are caused by people who have no symptoms at all of illness; scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, including broad distribution of effective vaccinations throughout the community; evidence that the age, condition, and health of a significant portion of the population of the City places it at risk for serious health complications, including death, from COVID-19; further evidence that others, including younger and otherwise healthy people, are also at risk for serious outcomes including death; evidence that breakthrough infections can occur in fully vaccinated



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people; and the reality that SARS-CoV-2 infections and COVID-19 diagnoses remain prevalent throughout the world. Due to the outbreak of COVID-19 in the general public, which is a pandemic according to the World Health Organization, there is a public health emergency throughout the City, region, State, and nation. That immediate threat to public health and safety is also reflected in the continuing declarations of emergency referenced in Section 5 below.

- d. Cases, Hospitalizations, and Deaths. As of April 23, 2021, there were 36,044 confirmed cases of COVID-19 in the City (up from 37 on March 16, 2020, the day before the first shelter-in-place order in the City went into effect) as well as at least 531 deaths (up from a single death on March 17, 2020). This information, as well as information regarding hospitalizations and hospital capacity, is regularly updated on the San Francisco Department of Public Health's website at <https://data.sfgov.org/stories/s/fjki-2fab> and incorporated into this Order by this reference.

2. Minor Consent Requirements.

- a. Any Vaccine Provider within the City may accept the consent of a Minor to receive any FDA-authorized or approved COVID-19 Vaccine that is authorized or approved to be received by someone their age, provided that the Vaccine Provider reasonably attempts to notify a Legally Responsible Adult as described in Section 3 below and there is no objection from that Legally Responsible Adult. If consent from a Legally Responsible Adult cannot reasonably be obtained, then the Vaccine Provider may administer a COVID-19 Vaccine to the Minor upon receipt of a Minor's consent.
- b. Notwithstanding any other provision of this Order, this Order does not authorize the administration of any COVID-19 Vaccine to a Minor if that person does not meet the minimum age requirement mandated by the FDA's current approval or EUA for the specific COVID-19 Vaccine being offered. This Order also does not require administration of a COVID-19 Vaccine if receipt of the vaccine by the Minor is medically contraindicated.
- c. This Order is expressly issued to invoke the protections of Section 8659 of the California Government Code for any physician or surgeon, hospital, pharmacist, respiratory care practitioner, nurse, or dentist who administers a COVID-19 Vaccine to a Minor as a Vaccine Provider under this Order.

3. Notification Requirements.

- a. Before any vaccination authorized by this Order, the Vaccine Provider must reasonably attempt to obtain the consent of any Legally Responsible Adult,



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either in person, in writing, or by telephone.

- b. If a Legally Responsible Adult objects to the Minor's receipt of the COVID-19 Vaccine, then the Vaccine Provider may not rely on this Order to obtain the consent of the Minor to administer the vaccine to that Minor. This Order does not alter other avenues for obtaining minor consent under California law. Nothing in this Order prohibits a Minor from seeking an order of a court of law with jurisdiction to authorize receipt of a COVID-19 Vaccine by the Minor.

4. Definitions.

For purposes of this Order, the following initially capitalized terms have the meanings given below.

- a. ***Vaccine Provider.*** "Vaccine Provider" means any entity or person providing vaccinations of a COVID-19 Vaccine in the City who is authorized by the State of California to provide such vaccination.
- b. ***COVID-19 Vaccine.*** "COVID-19 Vaccine" means any vaccine that is either authorized for emergency use by the FDA or approved by the FDA for introduction into interstate commerce for the prevention of COVID-19.
- c. ***Minor.*** "Minor" means any person who is 12 years to 17 years old and is located within the jurisdiction of the City. Any person who is an emancipated minor under Section 7050 of the California Family Code and who may consent to medical care without parental consent, knowledge, or liability may consent to receipt of a COVID-19 Vaccine. Similarly, any person who is a self-sufficient minor under Section 6922 of the Family Code and who may consent to medical care without parental consent or liability may also consent to receipt of a COVID-19 Vaccine. Any such emancipated minor or self-sufficient minor may consent to receiving a COVID-19 Vaccine without the notice required by Section 3 above.
- d. ***Legally Responsible Adult.*** "Legally Responsible Adult" means a person, such as a parent or guardian, who has the legal authority to consent to the specific Minor's receipt of health care, including receipt of a COVID-19 Vaccine.

5. Incorporation of State and Local Emergency Proclamations and State Health Orders.

- a. **State and Local Emergency Proclamations.** This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 12, 2020 Executive Order (Executive Order N-25-20) issued by Governor Gavin Newsom, the February 25,



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2020 Proclamation by the Mayor Declaring the Existence of a Local Emergency issued by Mayor London Breed, as supplemented on March 11, 2020, the March 6, 2020 Declaration of Local Health Emergency Regarding Novel Coronavirus 2019 (COVID-19) issued by the Health Officer, and COVID-19-related guidance issued by the California Department of Public Health, as each of them have been and may be supplemented in the future.

- b. State Health Orders. This Order is also issued in light of the orders of the State Public Health Officer and the Governor and other State guidelines related to the pandemic and the State's response to the pandemic, including, but not limited to, guidelines of the California Department of Public Health for allocating COVID-19 vaccines.
- c. Federal Orders. This Order is also issued in light of federal orders, including the January 20, 2021 Executive Order on Protecting the Federal Workforce and Requiring Mask-Wearing, which requires all individuals in Federal buildings and on Federal land to wear Face Coverings, maintain physical distance, and adhere to other public health measures, and the February 2, 2021 Order of the United States Centers for Disease Control and Prevention, which requires use of a Face Covering on public transportation.
- a. Health Officer Orders and Directives. This Order is also issued in light of other orders and directives issued by the Health Officer as they relate to the pandemic and the City's response to the pandemic. Those orders and directives show the seriousness of the issue and the many efforts that the City, including but not limited to the Department of Public Health, have taken to address the spread of COVID-19 within the City. This Order incorporates by reference and is based in part on each of the other orders and directives issued by the Health Officer to this point, including as each of them may be updated in the future. That includes, without limitation, each of the following, including as they may be updated or amended in the future, in relation to this Order:
 - i. The Stay-Safer-At-Home Order (imposing restrictions on activities outside the home for all people in the City to protect all during the pandemic);
 - ii. Order No. C19-12e (with limited exceptions, requiring all people in the City to wear Face Coverings when near people from different Households);
 - iii. Order No. C19-15c (regarding COVID-19 testing); and
 - iv. Order No. C19-18 (requiring large healthcare providers to share COVID-19 vaccination plans and share vaccination data).



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6. Effective Date.

This Order becomes effective at 8:00 a.m. on April 29, 2021, and will continue in effect (as it may be updated) until the Health Officer rescinds, supersedes, or amends it in writing.

7. Copies.

The City must promptly provide copies of this Order as follows: (1) by posting on the Department of Public Health website (www.sfdph.org/healthorders); (2) by posting at City Hall, located at 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102; and (3) by providing to any member of the public requesting a copy.

8. Severability.

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 "Susan Philip".

Susan Philip, MD, MPH,
Acting Health Officer of the
City and County of San Francisco

Date: April 28, 2021