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Vaccine Requirements – Philippines





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Philippines

In the Philippines, the nation-wide rollout of COVID-19 vaccines began in 2021. To date, the Philippines has administered at least 141,959,452 doses of COVID-19 vaccines.¹ Vaccination, although not a standalone control measure, is viewed as the top-most effective tool for protecting people against the said virus. As a corollary measure, minimum public health standards must still be followed to avoid transmission of the virus. Pursuant to *Republic Act No. 11525* or the “COVID-19 Vaccination Program Act of 2021” (“R.A. No. 11525”), the policy of the State is to adopt an integrated approach to health development which shall endeavor to make essential social services available to all people at an affordable cost. Given the challenges in procuring and administering vaccines for an immediate and efficient rollout nationwide, *Section 5* of the R.A. No. 11525 allows the private entities to procure COVID-19 vaccines for its sole and exclusive use.

Given that the Philippines is working under the context of a limited global supply of COVID-19 vaccines, the Inter-Agency Task Force for the Management of Emerging Disease (“IATF”) adopted the prioritization framework and criteria of the Interim National Immunization Technical Advisory Group (“iNITAG”) and the Department of Health Technical Advisory Group (“DOH-TAG”) for COVID-19 vaccines. The framework ensures that priority is given to those who have a higher risk of exposure to COVID-19, *i.e.*, frontline health workers and uniformed personnel, and to vulnerable groups by principle of equity, *i.e.*, senior citizens and the indigent population. The following are currently the order of priority:

- A1** : Frontline workers in health facilities both national and local, private and public, health professionals and non-professionals like students, nursing aides, janitors, barangay health workers, etc.
- A2** : Senior citizens aged 60 and above
- A3** : Persons with co-morbidities not otherwise included in the preceding categories
- A4** : Frontline personnel in essential sectors including uniformed personnel, seafarers and those in working sectors identified by the IATF as essential during ECQ
- A5** : Indigent population not otherwise included in the preceding categories
- B1** : Teachers, Social Workers
- B2** : Other Government Workers
- B3** : Other essential workers
- B4** : Socio-demographic groups at significantly higher risk other than senior citizens and indigenous people
- B5** : Overseas Filipino Workers
- B6** : Other Remaining Workforce C: Rest of the Filipino population not otherwise included in the above groups

¹ Philippines. Accessible at <https://graphics.reuters.com/world-coronavirus-tracker-and-maps/countries-and-territories/philippines/>.

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In close connection to this matter, with the gradual opening of varied business sectors, there have been questions and discussion amongst the public and the government authorities on whether to make COVID-19 vaccination as mandatory. Currently, there is no law mandating COVID-19 vaccination in the Philippines. However, the national government has made clear of its policy that vaccination is the best tool against COVID-19 and is, therefore, highly encouraged.

No Jab, No Job Policy

The no job, no job policy recently became a subject of media attention and public discussion. Questions have been raised on whether this policy may be legally implemented by the employers. In the *Labor Advisory No. 3, Series of 2020* or the guidelines on the administration of COVID-19 vaccines in the workplaces is instructive. The labor advisory states that covered establishment and employers shall adopt and implement the appropriate vaccination policy in the workplace as part of the Occupational Safety and Health. Covered establishments and employers may procure COVID-19 vaccines, supplies and other services by entering into tripartite agreements with the Philippine national government and the vaccine manufacturers as COVID-19 vaccines are not yet commercially available in the market. Furthermore, no cost of vaccination in the workplace shall be charged against or passed on, directly or indirectly, to the employees. The burden is placed upon the employer especially if it is made part of the requirement for continuous employment.

Verily, the prevailing policy is that the no job, no job policy is not allowed. Covered establishment and employers in the private sector shall endeavor to encourage their employees to get vaccinated, consistent with the mandate of R.A. No. 11525. However, any employee who refuses or fails to be vaccinated shall not be discriminated against in terms of tenure, promotion, training, pay and other benefits, among others, or terminated from employment.

For employees who have not received their vaccination, employers and employees are encouraged to discuss possible work arrangements that may be adopted whenever possible. The purpose of which is to create a balance between preventing the spread of the virus in the workplace and preventing any form of discrimination amongst unvaccinated employees.

It likewise bears emphasis that vaccine cards must not be considered as an additional requirement for employment purposes, pursuant to R.A. No. 11525 on the COVID-19 vaccination program. Hence, it is apparent that the overall policy is to keep the security of tenure protected.

This policy of encouraging the private sector to promote vaccination in their workplace is carried over in the *Labor Advisory No. 08, Series of 2021*. This advisory mandates that all establishments and employees in the private sector are highly encouraged to get inoculated with COVID-19 vaccine. Employers are mandated to urge their employees to avail of their own vaccination program, if one is provided, or in their local government units.

Vaccination for On-Site Workers

Although there remains to be no absolute rule which mandates vaccination in the workplace, it is noteworthy that there are specific establishments required to have all employees physically reporting for work to be fully vaccinated. Pursuant to the Department of Tourism Advisory No. 16, series of 2021, these establishments are as follows:





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- Venues for meetings, incentives, conferences, exhibitions (MICE);
- Permitted venues for social events such as parties, wedding receptions, engagement parties, wedding anniversaries, debut and birthday parties, family reunions, and bridal or baby showers;
- Tourist attractions, whether indoor (e.g., libraries, archies, museums, galleries, cultural shows, and exhibits) or outdoor (e.g., parks, plazas, public gardens, and scenic viewpoints or overlooks);
- Dine-in services in food preparation establishments such as kiosks, commissaries, restaurants and eateries;
- Ancillary facilities in DOT-Accredited Accommodation Establishments such as fitness studios, gyms, and venues for non-contact exercise and sports, provided that patrons/clients and workers/employees wear face masks at all times and that no group activities are conducted.

Under the IATF Resolution No. 148-B, all establishments in the public and private sector must require their eligible employees tasked to do on-site work to be fully vaccinated against COVID-19. Eligible employees who remain to be unvaccinated may not be terminated solely by reason thereof. However, they shall be required to undergo RT-PCR tests regularly at their own expenses for purposes of on-site work. In the alternative, antigen tests may be resorted to should RT-PCR tests be unavailable. For public transportation services in the road, rail, maritime, and aviation sectors, the IATF Resolution No. 148-B requires that its eligible workers be likewise fully vaccinated.

In IATF Resolution No. 149, all partially vaccinated employees in the public and private sector tasked to do on-site work need not undergo regular RT-PCR test at their own expense, as long as their second dose is not yet due based on the interval prescribed for the brand of vaccine received as first dose.

Presently, there is a clamor to recall the two aforementioned IATF Resolutions for requiring mandatory vaccination as they are arguably unfair to the workers and in violation of the DOLE Advisory² against no jab, no job policy.

With respect to reportorial requirements for vaccination programs implemented by a company, there is presently no guidelines on this matter. Employers are not required to report before the DOH. Nevertheless, they are encouraged to do so or to keep records on vaccination of effected in the workplace.

No Vax, No Ride Policy

On 17 January 2022, the Department of Transportation posted a ban against unvaccinated individuals from taking public transportation, at least within the National Capital Region (“NCR”) of the country. Such prohibition faced a multitude of complaints, among them from individuals who already had their first dose of the COVID-19 vaccine but had not yet been inoculated with their second shot. Such policy was not in place for too long. The considerable decline in the number of COVID-19-affected individuals played a central role in the lifting of such prohibition—as the NCR was placed in a lower alert level relative to the spread of COVID-19.

² Department of Labor and Employment Labor Advisory No. 03, Series of 2021





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In conclusion, COVID-19 guidelines and policies are continuously evolving and changing in the Philippines. The national government adopts its measures based on the current situation and latest medical discoveries. Included in that respect is the assessment of whether there is a necessity to make vaccination mandatory. However, given that a considerable number of individuals have already been vaccinated and that more people are willing to get their jobs, requiring vaccination may seem not only unfair but also already unwarranted. What remains pivotal is for the national government to craft policies that continue to encourage vaccination in the workplace without impeding workers from performing their functions.

NO DISCRIMINATION OR TERMINATION

Covered establishments and employers shall endeavor to encourage their employees to get vaccinated. However, any employee who refuses or fails to be vaccinated shall not be discriminated against in terms of tenure, promotion, training, pay, and other benefits, among others, or terminated from employment. No vaccine, no work policy shall not be allowed.

