



## COVID-19 VACCINATION Q&A January 21, 2021

Member districts of the Trust and Alliance have been reaching out to pool staff with questions regarding the possibility of offering COVID-19 testing and vaccination services. In response to these questions, pool staff consulted with legal counsel to provide research, recommendations, and additional considerations for our members. Staff knows that the scenarios and questions outlined below may not apply to your district, and that there is not a “one size fits all” approach that will work for everyone. Accordingly, we encourage districts to review the information below with their legal counsel and adapt the recommendations to their specific needs.

Finally, please note that these issues are still developing. As updates or changes are made concerning the distribution of the COVID-19 vaccine and the pools’ corresponding recommendations, this document will be modified and re-distributed to members.

### **TESTING AND VACCINATION SCENARIOS**

Many county public health offices and/or local medical providers have reached out to districts to request use of district facilities—and in some cases district nurses—to administer COVID-19 tests or vaccines. This has been particularly true during the past few weeks, as there has been a strong push to administer the vaccine.

Below is a summary of the various scenarios districts may be contemplating:

1. Public health office or a medical provider—using their own staff—conducts COVID-19 testing at district facilities.
2. Public health office or a medical provider—using their own staff—administers vaccines at district facilities.
3. Public health office or a medical provider—using the school district’s nursing staff—conducts COVID-19 testing at district facilities.
4. Public health office or a medical provider—using the school district’s nursing staff—administers vaccines at the district facilities.

Under any of these scenarios, the district should require that the public health office or medical provider complete a facility use agreement as a condition of using the district’s facilities. This agreement would indemnify the district for claims that may arise.

For a sample agreement, please access the [Trust COVID-19 website](#), and refer to the “Template Facility Use Agreement for COVID-19 Vaccine Site” link under the “COVID-19 Vaccination Resources” section.

## **VACCINE COVERAGE AND LEGAL CONSIDERATIONS**

### **Introduction and Summary**

The information in this section applies to Scenario 4 above, that is, district nurses assisting in the administration of vaccines. Please note that this information is not intended to alter or supersede the Trust or Alliance Coverage Agreements, nor does it guarantee coverage in the event of a claim. For any variance between the information in this communication and the Coverage Agreements, the Coverage Agreements govern.

In summary: For coverage to potentially apply, district nurses (and any others assisting district nurses), must be acting within the course and scope of their authorized employment for the district. Additionally, while district nurses assisting in the facilitation of pre or post screenings or the administration of vaccines could be a covered activity, there are many variables that must be considered. Any coverage determination would need to be based on the facts of each claim, which would be thoroughly investigated to ensure that the alleged damages or injury arose from either the district’s alleged negligence (for third-party liability claims), or through the course and scope of employment (for employee workers’ compensation claims).

### **Questions and Answers**

#### **Who should receive the vaccine?**

Under the scenarios outlined above, if district nurses are administering the vaccine, they should administer it to district employees only. That is, the Trust does not recommend allowing district staff to vaccinate community members.

If public health and/or medical providers wish to use district facilities to provide vaccines to the general public, they should use their own personnel, not district personnel. Additionally, a facility use agreement should be completed. This will indemnify the district against any liability.

#### **Is the Trust requiring district employees to be vaccinated?**

No, the Trust is not requiring district employees to be vaccinated.

If you are considering mandatory vaccination, however, we encourage you to consult the [legal memorandum](#) we provided to members in December.

**May districts require their employees to be vaccinated?**

Yes, albeit with a number of exceptions, exemptions, and caveats. Again, the Trust recommends that members review the [legal memorandum](#) referenced in the previous question before requiring that employees be vaccinated. Additionally, members should consult with their legal counsel or Pre-Paid Legal Program attorney before requiring employee vaccinations.

**May districts request notification if/when employees are vaccinated?**

Yes, but the Trust strongly recommends that districts obtain written consent from their employees prior to receiving notice of vaccination.

**If district nurses are administering vaccines, could Trust coverage apply?**

As noted above, Trust coverage may apply as long as the district nurse acted within the course and scope of his or her employment, as directed by district administration and/or the district governing board. However, there are many variables that must be considered, and coverage determinations will be made on a claim-by-claim basis.

**If district nurses who are administering vaccines are injured, could workers' compensation apply?**

Again, workers' compensation coverage may apply as long the district nurse acted within the course and scope of his or her employment, as directed by district administration and/or the district governing board. Coverage determinations will follow Arizona workers' compensation laws, and will be made on a claim-by-claim basis.

**If an employee receives a vaccine and has an adverse reaction, could workers' compensation apply?**

If the district requires employees to receive a vaccine, it is possible that workers' compensation coverage could be triggered if an employee has an adverse reaction to the vaccine. However, such coverage determinations will be made on a claim-by-claim basis.

**May districts require employees to sign a waiver and release of claims before being vaccinated?**

Yes, but Trust legal counsel does not recommend that districts require employees to sign a waiver/release of claim before being vaccinated. Rather, districts may consider having employees sign a consent form.

For a sample consent form, please access the [Trust COVID-19 website](#), and refer to the "COVID-10 Vaccine Template Consent Form" link under the "COVID-19 Vaccination Resources" section.

### **May districts require district nurses to administer vaccinations?**

Yes, though districts should consult with their legal counsel or Pre-Paid Legal Program attorney before requiring district nurses to administer vaccinations. Trust staff has communicated with some districts where nurses felt comfortable administering vaccines, and some where they did not. This and other issues should be considered with legal counsel before arriving at any decision.

## **VACCINE OPERATIONAL CONSIDERATIONS**

### **Questions and Answers**

#### **Who is in charge of the scheduling, administration, and tracking of vaccinations?**

Public health officials or the medical provider should be in charge of the scheduling, oversight of administration, and tracking of vaccinations. For the administration of vaccinations, the following must be considered:

- pre-screening (reviewing medical histories to learn about allergies, completion of HIPAA forms, etc.);
- proper procedures for the administration of the vaccine; and
- post-vaccine screening (monitoring individuals who have been vaccinated for a certain period of time after the vaccination takes place).

Public health officials and/or the medical provider should provide thorough training to any district nurses assisting in any of these steps, including the administration of vaccinations.

Finally, public health officials and/or the medical provider should provide input at the time of the medical screening—prior to the administration of the vaccine—to determine if there are any accommodations required under the American with Disabilities Act (ADA).

#### **Who is in charge of storing the vials and tests?**

The public health office or the medical provider should provide and control any storage containers for the vaccine vials.

#### **Who is qualified to administer the vaccine?**

The following healthcare providers are authorized to administer the vaccine: medical doctors (MD), osteopathic physicians (DO), naturopathic physicians (ND), physician assistants, nurse practitioners, registered nurses, licensed practical nurses, medical assistants, emergency medical technicians (EMT-I), paramedics, school nurses, and pharmacists.

Additional information can be found on the [ADHS FAQ page](#).

### Who can I contact in my county for further information?

Please consult the table below.

COUNTY	COUNTY COVID-19 VACCINE WEBSITE
Apache	No website available
Cochise	<a href="https://covid-cochisehealth.hub.arcgis.com/">https://covid-cochisehealth.hub.arcgis.com/</a>
Coconino	<a href="https://coconino.az.gov/covid19vaccine">https://coconino.az.gov/covid19vaccine</a>
Gila	<a href="http://www.readygila.com/">http://www.readygila.com/</a>
Graham	No website available
Greenlee	<a href="https://www.greenlee.az.gov/departments/health-county-services/">https://www.greenlee.az.gov/departments/health-county-services/</a>
La Paz	<a href="http://lpchd.com">lpchd.com</a>
Maricopa	<a href="https://www.maricopa.gov/5651/Phase-1B">https://www.maricopa.gov/5651/Phase-1B</a>
Mohave	<a href="https://covid-19-mohave.hub.arcgis.com/">https://covid-19-mohave.hub.arcgis.com/</a>
Navajo	<a href="https://reports.mysidewalk.com/ebaab58e56">https://reports.mysidewalk.com/ebaab58e56</a>
Pima	<a href="http://pima.gov/covid19vaccine">http://pima.gov/covid19vaccine</a>
Pinal	<a href="http://bit.ly/390AqFT">http://bit.ly/390AqFT</a>
Santa Cruz	<a href="https://www.santacruzcountyaz.gov/732/COVID-19-Novel-Coronavirus">https://www.santacruzcountyaz.gov/732/COVID-19-Novel-Coronavirus</a>
Yavapai	<a href="https://www.yavapai.us/chs">https://www.yavapai.us/chs</a>
Yuma	<a href="https://yumacountyaz.gov">https://yumacountyaz.gov</a>

### COVID-19 TESTING CONSIDERATIONS

If the district is offering COVID-19 testing, the coverage issues outlined above apply. Additionally, public health officials or a third-party medical provider should be expected to:

- sign a facility use agreement that indemnifies the district;
- facilitate the scheduling, pre-screening, oversight of test administration, test result communication, etc.; and
- provide thorough training to district nurses if they will be administering tests.

COVID-19 testing may be opened to students of the district in addition to district employees. Please note that at this time, however, the Trust does *not* recommend using

district staff to administer COVID-19 tests to community members. Additionally, districts should work in concert with public health officials and/or medical providers to clearly outline who can obtain a test, and by whom tests will be administered. Finally, public health officials should maintain full responsibility for notifying individuals of their COVID-19 test results.

### **SAMPLE QUESTIONS TO ASK HEALTH OFFICIALS AND MEDICAL PROVIDERS**

Districts staff may want to ask public health officials and/or medical providers the following questions when considering offering vaccinations or COVID-19 tests:

- Are they willing to enter into a facility use agreement with the district?
- Is the public health or medical provider considered a designated Pandemic Vaccine Provider? If so, can they provide proof of that to the district.
- What training will district nurses who are providing vaccines and/or COVID-19 testing receive?