

**ORDER OF THE HEALTH OFFICER OF THE CITY OF BERKELEY
FOR THE CONTROL OF COVID-19 TRANSMISSION IN LONG-TERM
CARE FACILITIES**

**Public Health Long-Term Care Facility COVID-19 Transmission Control
Order**

Date Order Issued: January 11, 2022

**This Order is in effect until rescinded in writing by the Health
Officer.**

SUMMARY OF THE ORDER

Due to the detection of the newly identified Omicron variant of the SARS-CoV-2 virus in the City of Berkeley, and throughout California and other states, and until more information is known about this variant's transmissibility, its impact on vaccine effectiveness and breakthrough infections, including in individuals who have received booster doses, whether it is associated with more severe disease, and whether it is susceptible to currently available COVID-19 treatments, additional infection control precautions are indicated and necessary for Long-Term Care Facilities ("LTCFs") because residents of those facilities are at heightened risk for poor health outcomes should transmission occur within the facility.

Beginning January 12, 2022 through March 31, 2022, all Long-Term Care Facility residents, employees, and contractors, regardless of vaccination status, who may encounter residents must test for COVID-19 infection on a once weekly basis.

Those who show documentation of recovery from COVID-19 within the last 90 days (i.e., a positive COVID-19 viral test result on a sample taken no more than 90 days before) are exempt from weekly testing

During a State of Emergency, California law empowers the City of Berkeley Health Officer (Health Officer) to take necessary protective measures to protect the public from a public health hazard. The spread of COVID-19 remains a substantial danger to the health of the public and to patients/residents in licensed Long-Term Care Facilities (LTCFs) in the City of Berkeley.

Infection control, regular testing of residents and employees and social (physical) distancing measures are needed to stem or slow the spread of COVID-19 and decrease the risk of transmission to vulnerable patients/residents in high-risk health care settings.

Accordingly, the Health Officer hereby requires all licensed Long-Term Care Facilities, operating within the City of Berkeley Public Health Jurisdiction, to comply with all measures in this Order. The required measures are intended to reduce the transmission of COVID-19 in these facilities and to protect vulnerable residents, as well as personnel.

This Order is effective immediately and will remain in effect until rescinded, superseded, or amended in writing by the Health Officer.

This Order is based upon scientific evidence and updated best practices known to protect patients, personnel, and the public from the avoidable risk of serious illness and death resulting from COVID-19, as well as protect the health care system from a surge of cases. The required actions are consistent with guidance from the Centers for Disease Control and Prevention (“CDC”), the U.S. Centers for Medicare & Medicaid Services (“CMS”), the California Department of Public Health (“CDPH”), and the City of Berkeley Public Health Officer Unit.

Compliance with this Order is required because the City Health Officer has determined that:

- There continues to be high community transmission of COVID-19 in the City of Berkeley, which also continues to present a significant risk of harm to the health of residents, with the threat of the newly circulating Omicron variant of the SARS-CoV-2 virus.
- Until more information is known about the Omicron variant’s transmissibility, its impact on vaccine effectiveness and breakthrough infections, including in individuals who have received booster doses, whether it is associated with more severe disease, and whether it is susceptible to currently available COVID-19 treatments, it is prudent to implement additional safety measures.
- The communal nature of LTCFs, and the population served (generally older adults often with underlying medical conditions), put those living in LTCFs at increased risk of infection and severe illness from COVID-19 if infected.
- Social (physical) distancing measures alone may not be effective in LTCFs due to the concentration of individuals and the nature of the services provided to them.
- Due to the current rates of community transmission of COVID-19 within City of Berkeley, staff may be unknowingly infected with COVID-19 (i.e., are asymptomatic or pre-symptomatic) and unknowingly transmit the virus to patients/residents or other staff. Limiting non-essential contact and prohibiting access from individuals with fever or respiratory symptoms and individuals who

have been in contact with people who have COVID-19 reduces the chance for exposure to COVID-19 for vulnerable patients/residents.

- Not adhering to the measures required by this Order will likely impair efforts to mitigate the spread of COVID-19 within the Facility and within the City and State.

**UNDER THE AUTHORITY OF THE CALIFORNIA HEALTH
AND SAFETY CODE SECTIONS 101475 AND 120175,
THE CITY OF BERKELEY HEALTH OFFICER 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 §§ 120220, 120295; City of Berkeley Municipal Code §2.50.040.)

1. Beginning January 12, 2022 through March 31, 2022, all Long-Term Care Facility residents, employees, and contractors, regardless of vaccination status, who may encounter residents must test for COVID-19 infection on a once weekly basis.
2. Those who show documentation of recovery from COVID-19 within the last 90 days (i.e., a positive COVID-19 viral test result on a sample taken no more than 90 days before) are exempt from weekly testing.
3. Emergency medical services personnel responding to a patient call at the Facility are exempt from the testing requirements above.
4. The Facility must offer COVID-19 immunization including boosters, as doses of the vaccine are made available to the Facility, to all residents and Facility staff, including directly employed staff and staff not directly employed by the Facility, paid and non-paid, who regularly enter Facility premises one time per week (defined as any consecutive 7-day period) or more.
 - a. For residents who have been discharged or transferred to another Facility by the time the subsequent dose of a vaccine is due, the Facility that administered the last dose should ensure that the complete course is offered or administered.
 - b. For staff who no longer regularly work at or visit the Facility that administered the last dose by the time the subsequent dose of a vaccine is due, the same Facility should offer the complete course if requested by the staff member.
 - c. The Facility must maintain a record of COVID-19 immunization status including booster dose of residents; for residents who were immunized at

the Facility, this record shall document the date(s) the resident was immunized, the specific immunization administered, and other information as specified by the State.

- d. The Facility must maintain a record of COVID-19 immunization status including booster of staff; this shall document the date(s) the staff member was immunized; for staff members who decline immunization, there must be documentation of a signed declination statement that indicates the reason for declination.
 - e. The Facility must provide information on COVID-19 immunization status of residents and staff to the City of Berkeley, if requested no later than the next business day after receiving the request.
2. Nothing in this Order limits the obligation of a Facility to comply with the requirements in the [Cal/OSHA COVID-19 Prevention Emergency Temporary Standards](#). Nothing in this Order shall be construed to limit the ability of a Facility to impose policies which are stricter than those imposed by this Order.
 3. In the event of an outbreak, or if a Facility which is subject to this Order violates or fails to comply with this Order, the Health Officer may take additional action(s), including but not limited to imposing additional testing and verification requirements, to protect the public's health. Violation of this Order constitutes an imminent threat and immediate menace to public health, constitutes a public nuisance, and is a misdemeanor punishable by imprisonment, fine or both.
 4. The Health Officer will continue to monitor several key indicators to inform the decision whether to modify the restrictions in this Order. The Health Officer will continually review whether modifications to the Order are warranted based on (1) progress in countering the spread of COVID-19 in the City; (2) developments in methods and strategies for preventing and treating COVID-19; and (3) scientific understanding of the transmission dynamics and clinical impact of COVID-19.
 5. 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 3, 2020 Proclamation by the Director of Emergency Services Declaring the Existence of a Local Emergency in the City, the March 10, 2020 Resolution of the City Council Ratifying the Proclamation of Local Emergency, and guidance issued by the CDPH and CDC, as each of them have been and may be supplemented.
 6. This Order is also issued in light of the March 19, 2020 Order of the State Public Health Officer and subsequent orders and guidance issued by the Governor, the State Health Officer, and the California Department of Public Health and

Department of Industrial Relations. The Health Officer may adopt more stringent restrictions and requirements addressing the particular facts and circumstances in the City, necessary to control the public health emergency as it is evolving within the City and the region. Where a City Health Officer Order and any state public health order related to the COVID-19 pandemic conflict, the most restrictive provision controls.

7. The City must promptly provide copies of this Order as follows: (1) by posting on the City's website (cityofberkeley.info); (2) by posting at Old City Hall, located at 2134 Martin Luther King Jr. Way, Berkeley, CA 94704; and (3) by providing to any member of the public requesting a copy.
8. 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:



Lisa B. Hernandez, MD, MPH
Health Officer, City of Berkeley

Date: January 11, 2022