

**County of Santa Clara
Public Health Department**



Health Officer
976 Lenzen Avenue, 2nd Floor
San José, CA 95126
408.792.3798

**HEALTH ORDER REQUIRING USE OF FACE MASKS IN PATIENT CARE
AREAS OF HEALTH CARE DELIVERY FACILITIES DURING
DESIGNATED WINTER RESPIRATORY VIRUS PERIOD; RESCISSION OF
PRIOR HEALTH ORDERS**

**DATE OF ORDER: March 24, 2023
EFFECTIVE DATE: April 4, 2023**

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTION 120175,
THE HEALTH OFFICER OF THE COUNTY OF SANTA CLARA (“HEALTH OFFICER”)
ORDERS:

- 1. Background and Purpose.** The Health Officer makes this Order in light of historical data showing higher rates of COVID-19, influenza, respiratory syncytial virus, and other viral infections that can cause severe respiratory disease among people living in Santa Clara County annually between late fall and spring. This seasonal increase in circulation of multiple respiratory viruses causes a particular risk to populations more likely to experience severe disease and death if infected, including infants, older adults, and people with impaired immune systems. The seasonal surges also risk overwhelming the existing health care system in the county, jeopardizing the capacity to provide care for these and other diseases. The Health Officer makes this Order in light of the current persistent state of the COVID-19 pandemic and recurrence of seasonal influenza and other respiratory infections. In particular, the widespread availability of COVID-19 testing and treatment, the high level of community vaccination against COVID-19 in the county, and the lower death rate seen from the most recent surges of COVID-19, have diminished the necessity for year-round mandatory orders related to masking in multiple higher risk settings. However, the risk to vulnerable patients of COVID-19, influenza, and other respiratory infections in health care settings, including skilled nursing facilities, remains significant, and so it continues to be important for masks to be used in the Patient Care Areas of these settings when seasonal risk of exposure to one or multiple viruses is at its highest. This Order therefore rescinds prior Health Orders, as described in Section 2 below, while introducing a new seasonal requirement for use of Face Masks in Health Care Delivery Facilities, as set forth in Section 3 below.
- 2. Rescission of Prior Health Orders.** The July 24, 2012, Health Officer Order Requiring Mandatory Influenza Vaccination or Masking of Health Care Workers During Influenza Season and the September 12, 2022, Health Officer Order Requiring Use of Face Coverings in Higher-Risk Settings are rescinded as of 12:01 am on April 4, 2023, which is the Effective Date of this Order.

3. Mandatory Requirement to Wear Face Masks in Patient Care Areas of Health Care Delivery Facilities During the Designated Winter Respiratory Virus Period.

- a. Regardless of vaccination status, all persons in Patient Care Areas of Health Care Delivery Facilities must wear a Face Mask during the period deemed the Designated Winter Respiratory Virus Period by the Health Officer, except for the following:
 1. Persons younger than two years old due to, *inter alia*, the risk of suffocation.
 2. Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
 3. 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.
 4. 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.
- b. All Businesses and governmental entities with Health Care Delivery Facilities must enforce this Face Mask Requirement for all persons entering Patient Care Areas within the Health Care Delivery Facility, regardless of vaccination status, except as otherwise provided in this Order. All such Businesses and governmental entities must post clearly visible and easy-to-read signage at all entry points to Patient Care Areas to communicate the Face Mask requirements to all persons entering the Patient Care Areas of the Health Care Delivery Facility.
- c. In addition, those responsible for Health Care Delivery Facilities are required to provide Face Masks to individuals who will be in an area where Face Masks are required.

4. Definitions.

- a. “Business” includes any for-profit, non-profit, or educational entity, whether a corporate entity, organization, partnership, or sole proprietorship, and regardless of the nature of the service, the function it performs, or its corporate or entity structure.
- b. “Face Mask” means a surgical mask, KN95, KF94, or N95. A scarf, ski mask, balaclava, bandana, 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.
- c. “Health Care Delivery Facility” means a setting where patient care is provided indoors. Health Care Delivery Facilities include hospitals, clinics, surgery centers, dialysis centers, sites that provide inpatient or outpatient health care, skilled nursing facilities,

portions of long-term care facilities where nursing care is provided, and other facilities where patient care is provided indoors.

- d. “Patient Care Area” means any area that patients regularly access in order to receive healthcare within a Health Care Delivery Facility. Patient Care Areas include lobbies, waiting rooms, examination rooms, patient wings, elevators, and hallways used by patients. Patient Care Areas do not include administrative offices or staff break areas that are only accessible to personnel of the Health Care Delivery Facility. Patient Care Areas do not include areas such as cafeterias or gift shops that are not used for the provision of healthcare or to access areas where healthcare services are provided.
- e. “Designated Winter Respiratory Virus Period” means the period from November 1 to March 31 of each year. In any given year, the Health Officer may adjust the dates of the Designated Winter Respiratory Virus Period based on respiratory virus surveillance data. If the Health Officer changes the dates of the Designated Winter Respiratory Virus Period, the Health Officer will notify Health Care Delivery Facilities through a Health Advisory and a notice posted on the County Public Health Department’s website (<https://publichealth.sccgov.org>).

5. Recommendations from the Health Officer. The Health Officer strongly urges all Businesses and governmental entities with Health Care Delivery Facilities to monitor local and internal data that indicate circulating levels of respiratory viruses and impact to the facilities, such as, but not limited to, local virus wastewater monitoring, test positivity rates, bed availability, employee absenteeism due to illness, or rates of clinical care episodes due to respiratory viruses. Health Care Delivery Facilities should institute internal policies that require masking at any time outside the Designated Winter Respiratory Virus Period when local or internal data indicate that there is a high level of risk to patients or employees.¹

6. Applicability. All individuals, Businesses, and other entities in the county are ordered to comply with the applicable provisions of this Order. For clarity, individuals who do not currently reside in the county must comply with all applicable requirements of the Order when they are in the county. Governmental entities must follow the requirements of this Order applicable to Businesses, unless otherwise specifically directed by the Health Officer.


7. Obligation to Follow Any Stricter State Requirements. If a conflict exists between this Order and any order issued by the State Health Officer, the Governor, or a State agency (such as the California Division of Occupational Safety and Health (Cal/OSHA)) related to promotion or protection of public health, the most restrictive mandatory provision controls. For clarity, all individuals and entities must comply with any mandatory requirement imposed by the State to the extent it is stricter than any provision of this Order. Consistent with Health and Safety Code section 131080 and the Health Officer Practice Guide for Communicable

¹ For data regarding the County’s wastewater surveillance, visit: <https://covid19.sccgov.org/dashboard-wastewater>.

Disease Control in California, except if the State Health Officer issues an order expressly directed at this Order and based on a finding that a provision of this Order constitutes a menace to public health, any more restrictive measures in this Order continue to apply and control in this county. In addition, to the extent any federal guidelines are inconsistent with this Order, this Order is controlling.

- 8. Enforcement.** Pursuant to Government Code sections 26602 and 41601, Health and Safety Code section 101029, and Santa Clara County Ordinance Code section A1-34 *et seq.*, the Health Officer requests that the Sheriff, all chiefs of police in the County, and all enforcement officers 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.
- 9. Effective Date.** This Order is effective at 12:01 am on April 4, 2023. This Order is ongoing and shall continue to be in effect until it is rescinded, superseded, or amended in writing by the Health Officer.
- 10. Copies.** Copies of this Order shall promptly be: (1) made available at the County Government Center at 70 W. Hedding Street, San José, California; (2) posted on the County Public Health Department’s website (<https://publichealth.sccgov.org>); and (3) provided to any member of the public requesting a copy of this Order.
- 11. 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.

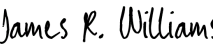
IT IS SO ORDERED:

DocuSigned by:


 Sara H. Cody, M.D.
 Health Officer of the County of Santa Clara

Dated: 3/24/2023

Approved as to form and legality:

DocuSigned by:


 James R. Williams
 County Counsel

Dated: 3/24/2023

Health Order Requiring Use of Face Masks in Patient Care Areas of Health Care Delivery Facilities During Designated Winter Respiratory Virus Period; Rescission of Prior Health Orders (Issued March 24, 2023)