



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

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PREP Act Authorization for Health Care Workers with Expired or Inactive Licenses to Administer COVID-19 Vaccines

The Washington State Department of Health and its partners are working diligently to implement the Centers for Disease Control and Prevention (CDC) COVID-19 Vaccination Program to administer vaccines to Washingtonians swiftly and safely and bring an end to the COVID-19 pandemic in our state. Achieving this goal will require mobilizing large numbers of qualified health care providers to administer vaccinations.

With actively practicing providers fully engaged in treating patients along with administering vaccines, retired and inactive health care providers can play a key role in taking on the vital work of vaccinating Washingtonians. To this end, this document, issued pursuant to the federal Public Readiness and Emergency Preparedness Act (PREP Act), **authorizes individuals with expired or inactive health care provider licenses to administer COVID-19 vaccines**, subject to the requirements below, and to benefit from the PREP Act's liability protections.

BACKGROUND/RATIONALE:

The PREP Act provides broad immunity from suit and liability under federal and state law to those engaged in activities aimed at combatting the COVID-19 pandemic, including administering COVID-19 vaccines authorized by the United States Food & Drug Administration. These protections were triggered by the declaration issued by the Secretary of Health and Human Services (HHS Secretary), effective February 4, 2020, determining that the spread of SARS-CoV-2 or a virus mutating therefrom and the resulting disease COVID-19 constitutes a public health emergency. *See* 85 Fed. Reg. 15,198 (March 17, 2020); *see also* Pub. L. No. 109-148, Public Health Service Act § 319F-3, 42 U.S.C. § 247d-6d and 42 U.S.C. § 247d-6e. The current version of the HHS Secretary's declaration may be found at <https://www.phe.gov/Preparedness/legal/prepact/Pages/default.aspx>.

The HHS Secretary's declaration establishes numerous pathways to qualify for the PREP Act's liability protections. Relevant here, the declaration provides that the protections are in effect for Covered Persons for Recommended Activities involving Covered Countermeasures that are related to activities authorized in accordance with the public health and medical response of the Authority Having Jurisdiction to prescribe, administer, deliver, distribute, or dispense Covered Countermeasures following a Declaration of Emergency.

COVID-19 vaccines that have received emergency use authorization, licensure, or other approval by the Food & Drug Administration are Covered Countermeasures.

Governor Jay Inslee's *Proclamation by the Governor 20-05*, issued on February 29, 2020 and subsequently amended, is a Declaration of Emergency.

Covered Persons include, among others, licensed health professionals who are authorized under state law to prescribe, administer, or dispense Covered Countermeasures. Covered Persons also include individuals who are not currently licensed, provided that they are authorized in accordance with the public health and medical emergency response of the Authority Having Jurisdiction to prescribe, administer, deliver, distribute, or dispense Covered Countermeasures, and their officials, agents, employees, contractors and volunteers, following a Declaration of Emergency. In short and as relevant here, an Authority Having Jurisdiction is empowered by the HHS Secretary's declaration to authorize individuals to administer COVID-19 vaccines.

The Washington State Department of Health is an *Authority Having Jurisdiction* within the meaning of the HHS Secretary's declaration because it is a public agency that has legal responsibility and authority for responding to the COVID-19 emergency in the state of Washington as the Coordinating and Primary Agency for Emergency Support Function 8 – Public Health, Medical, and Mortuary Services, of the State of Washington's Comprehensive Emergency Management Plan adopted under chapter 38.52 RCW. The Washington State Department of Health also has legal responsibility and authority in the State of Washington for investigating disease epidemics, enforcing the state's public health laws, controlling and preventing the spread of disease in an emergency, and generally protecting the public health, under chapter 43.70 RCW.

ACTIONS:

As Secretary of Health, the executive head and appointing authority of the Washington State Department of Health, under RCW 43.70.030, I hereby exercise the Washington State Department of Health's authority as an Authority Having Jurisdiction under the PREP Act and the HHS Secretary's declaration issued thereunder to authorize any person who meets the requirements below to administer COVID-19 vaccines authorized, approved, or licensed by the United States Food & Drug Administration:

- 1. The person held at any time since July 1998 a full active Washington State license to practice as a/an:**
 - **Advanced registered nurse practitioner, under chapter 18.79 RCW;**
 - **Registered nurse, under chapter 18.79 RCW;**
 - **Licensed practical nurse, under chapter 18.79 RCW;**
 - **Physician, under chapter 18.71 RCW;**
 - **Osteopathic physician and surgeon, under chapter 18.57 RCW;**
 - **Physician assistant (allopathic or osteopathic), under chapters 18.71A or 18.57A RCW;**
 - **Pharmacist, under chapter 18.64 RCW; or,**
 - **Naturopath, under chapter 18.36A RCW;**
- 2. No license ever held by the person in any United States jurisdiction has been subject to enforcement action, as determined by the Department of Health;**

3. **The person has performed at least one of the following:**
 - **Administered a vaccine by intramuscular injection within the ten years preceding the date of this authorization;**
 - **Participated regularly in immunization services, including administration, over the course of their professional experience; and/or,**
 - **Completed a refresher immunization training within the six months preceding or at any time after the date of this authorization. The training may be given by a person holding a Washington State license in good standing in any profession listed in section 1 above, a health care facility, a person or entity currently authorized by the state to provide continuing education to any profession listed in section 1 above, a public health agency, or an accredited educational institution;**
4. **The person administers COVID-19 vaccines in support of an enrollee or participant in the state or federal government’s COVID-19 vaccination program;**
5. **The person has registered in WAserv at waserv.org, for which instructions can be found at <https://www.doh.wa.gov/Emergencies/COVID19/HealthcareProviders>;**
6. **The person has received confirmation from the Department of Health that (s)he is authorized hereunder; and,**
7. **The person has not been otherwise excluded from this authorization by the Department of Health.**

Pursuant to 42 U.S.C. § 247d-6d(b)(8), any provision of Washington State law that would otherwise require a person to hold a license to administer COVID-19 vaccines is preempted for any person who meets the requirements of this authorization. Any person who meets the requirements of this authorization is a Covered Person as defined in the HHS Secretary’s declaration, meets the requirements of subsection (b) of section VII of said declaration, and qualifies as a vaccination provider as defined in the letters of authorization issued by the FDA for COVID-19 vaccines.

This authorization shall take effect upon signing and remain in effect until amended, rescinded, or overridden.

Signed this 31st day of January, 2021.



Umair A. Shah, MD, MPH
Secretary of Health