



Health, Housing & Community Services Department
Public Health Officer Unit

Lisa B. Hernandez, MD, MPH
Health Officer

**ORDER OF THE HEALTH OFFICER
OF THE CITY OF BERKELEY FOR THE CONTROL OF COVID-19
TRANSMISSION IN SKILLED NURSING FACILITIES
Mandatory Masking of Staff in Skilled Nursing Facilities**

Date Order Issued: March 31, 2023

**This Order is effective at 12:01 am April 3, 2023 and is in effect until
rescinded in writing by the Health Officer.**

SUMMARY OF THE ORDER

On September 22, 2022, the Health Officer rescinded the last remaining City of Berkeley Health Officer Order related to COVID-19. On February 28, 2023 the California COVID-19 State of Emergency ended. On April 3, 2023, the California State Health Officer and the California Department of Public Health will rescind the order which requires masking in indoor high-risk and healthcare settings which includes healthcare, long-term care and correctional facilities as well as homeless shelters.

COVID-19 remains present in the community and to reduce the spread of COVID-19 in certain vulnerable populations, protective measures are necessary to minimize the impact of COVID-19 in patients/residents in Skilled Nursing Facilities in the City of Berkeley. The communal nature of Skilled Nursing Facilities and the population served (generally older adults often with underlying medical conditions), put those living in Skilled Nursing Facilities at increased risk of infection and severe illness from COVID-19, if infected.

Accordingly, the Health Officer hereby requires all Skilled Nursing 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 patients/residents.

This Order is effective at 12:01 am on April 3, 2023 and will remain in effect until rescinded, superseded, or amended in writing by the Health Officer. The Health Officer will reassess the need for the continuation of this Order monthly.

**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 April 3, 2023 operators of Skilled Nursing Facilities must immediately implement a program to ensure that employees and contractors, regardless of vaccination status, must wear a high-quality well-fitting mask whenever they are in patient/resident care areas or in the presence of patients/residents in the facility. The mask requirement also applies to people who only visit the facility on an intermittent basis or for short periods of time, such as delivery people, regulators, firefighters, emergency medical technicians (EMTs), paramedics, police, and other law enforcement—all such individuals must wear a high-quality well-fitted mask when in the same room as patients/residents.
2. For the purposes of this Order:
 - a. “Skilled Nursing Facility” means a healthcare facility that provides 24-hour skilled nursing and supportive care to patients/residents.
 - b. “Staff” means Skilled Nursing Facility employees, volunteers, or contractors who provide services at the Skilled Nursing Facility, regardless of whether a particular employee, volunteer, or contractor ordinarily engages in patient/resident care or contact.
 - c. “High-quality, well-fitting mask” means, by way of example, surgical masks or non-vented N95, KN95, and KF94 respirators. A well-fitted non-vented N95, KN95, and KF94 respirator is strongly recommended, even if not fit tested. More information about fit and filtration and mask options can be found at the [CDPH masking webpage](#)
3. Skilled Nursing Facilities may exempt the following staff from masking:
 - a. 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. 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.
 - b. 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.

4. 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 requiring masking of visitors and patients, 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.
5. Nothing in this Order limits the obligation of a Facility to comply with the requirements in the [Cal/OSHA COVID-19 Prevention Non-Emergency Regulations](#) and any applicable rules issued by state or federal authorities including but not limited to Cal/OSHA's regulations. In the event of a conflict between provisions of the Health Officer order and any other order or rule, the provision that is more protective of health controls over the conflicting provisions of the other order or rule prevails.
6. This Order does not restrict the ability of a facility to require face coverings beyond the requirements of this Order. The Health Officer does not require patients/residents or visitors to wear masks, although masks are strongly recommended in this setting.
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: March 31, 2023