

# COVID-19: Legal Considerations for Resuming In-Person Services – What about Vaccination Requirements?

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Now that more people have received the COVID-19 vaccine, some social workers want to know if they should resume in-person services. NASW recommends that social workers continue to follow the [Centers for Disease Control and Prevention \(CDC\) recommendations](#),<sup>i</sup> as they are updated from time to time, when considering when and how to resume in-person services to clients. As of this writing, the CDC continues to recommend the use of personal protective equipment (e.g., masks) and social distancing in indoor healthcare settings.

The *Notes* to this article include links to current CDC guidance for healthcare settings, healthcare workers, and non-healthcare settings. It is unclear how the CDC would characterize a typical social worker's office (non-institutional), but we are taking the conservative view that it should be treated as a healthcare setting.

Be sure to review our companion article, [COVID-19: Legal Considerations for Social Workers Resuming In-Person Services](#) (May 2020),<sup>ii</sup> which reminds social workers to:

1. Be aware of their state and local reopening orders;
2. Determine whether any temporary orders in their state or other states where they have been practicing or plan to practice – including orders affecting the delivery of clinical health care via technology, or practice by out-of-state providers – have been rescinded or revised;
3. Adhere to any state and local governments' directives regarding, e.g., social distancing, use of personal protective equipment (PPE), and other protective measures, which vary from state to state (and sometimes within a state); and
4. Develop and implement appropriate safety policies, in accordance with federal, state, and local regulations, and industry best practices for healthcare settings.

## Frequently Asked Questions

### **Can I refuse to provide in-person sessions to clients who have not been fully vaccinated with the COVID-19 vaccine?**

From a legal and ethical perspective, social workers can generally refuse to treat a client as long as the refusal is not discriminatory in nature, so a policy against providing in-person services to unvaccinated clients should be permissible.<sup>iii</sup> Ideally, teletherapy can be offered as an alternative, although there may be cases where an unvaccinated client cannot be adequately

treated through teletherapy. These cases should be evaluated (with documentation) on an individual basis.

**Will my insurance cover any potential liability if I require proof of vaccination before treating a client in person?**

This will depend on the facts of the situation as well as the specific coverage and exclusions in your insurance policies and how they are interpreted, so it is important to confirm this with your malpractice insurance carrier (e.g., [NASW Assurance Services Inc.](#)) prior to doing so. Since aspects of COVID-19 coverage will be a novel issue, the insurance industry anticipates that in some cases the courts will have to determine coverage boundaries.

**Should I require clients to sign a waiver of liability or a consent form prior to receiving in-person services?**

Generally, waivers that cover willful, intentional or reckless conduct are not valid. This means clients cannot waive liability for malpractice, gross negligence, or similar violations, although a waiver of liability for exposure to Covid-19 might protect the social worker in other situations.

Better practice may be to require an informed consent that documents (a) acknowledgement of risks and potential for disclosures; (b) required safety protocols; and (c) a statement that both the client and social worker are fully vaccinated against Covid-19. This documentation, provided the safety protocols are documented and followed, should reduce the risk of a lawsuit and help demonstrate that the social worker exercised reasonable care. NASW has developed a template, Consent for In-Person Therapy for Those Vaccinated Against Covid-19, updated for social workers who have themselves been vaccinated and who will require proof of client vaccination before providing in-person treatment. (If you have not been vaccinated and/or will not require clients to be vaccinated before seeing them in person, then continue using [Consent for In-Person Social Work Services During Covid-19 Pandemic](#).) The form should be customized for your own practice, and the boxed notice at the bottom of the form should be removed. Please note that this consent form is not a substitute for your usual intake or other consent forms – it is an additional form to address the risks of Covid-19.

**What should a social worker do if a client refuses the delivery of clinical health care services via technology, when the social worker is not offering them in-person sessions because the client has not been vaccinated?**

If an existing client refuses the delivery of clinical health care services via technology when the provider is not offering them in-person services, then the social worker should make an effort to assist the client in obtaining services by providing appropriate referrals to other practitioners, in order to ensure continuity of care and avoid abandonment. This is particularly important if the client is in crisis. NASW members should review the Legal Issue of the Month, [Termination: Ending the Therapeutic Relationship-Avoiding Abandonment](#) (March 2015), for more information.

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## Notes:

<sup>i</sup> See the CDC's [Updated Healthcare Infection Prevention and Control Recommendations in Response to COVID-19 Vaccination](#) (posted April 27, 2021; updated as new information becomes available); this applies in healthcare settings.

See the CDC's [interim guidance for healthcare personnel](#) (updated March 11, 2021, and as new information becomes available), which provides guidance to employers of healthcare workers.

See the CDC's [Interim Public Health Recommendations for Fully Vaccinated People](#) (updated May 13, 2021, and as new information becomes available); this does not apply to healthcare settings.

<sup>ii</sup> However, if a social worker denies in-person services to clients who cannot be vaccinated due to health restrictions, that could implicate Americans with Disabilities Act protections. If services are denied to those who are not vaccinated due to religious beliefs, that could implicate protections under the Civil Rights Act of 1964. These situations are beyond the scope of this article.