Implementing mandatory flu shots: Two systems share their stories

A mandatory policy is guaranteed to increase compliance, but it’s not free of challenges

Continuing Education | Learning Objectives

After reading this article, you will be able to:
➤ Justify implementing a mandatory flu shot policy
➤ Recognize the importance of communicating your flu shot policy early
➤ Identify legal and ethical hazards of a mandatory flu shot program

Every year, medical facilities plead with employees to get their annual influenza vaccinations. Some initiate campaigns as early as August, explaining the value of receiving the flu shot as well as the patient safety implications and worker safety benefits.

But despite even the most rigorous efforts, medical facilities often struggle to get flu shot rates over 50%.

A CDC report published April 2 indicated that by mid-January, nearly 62% of healthcare workers had been vaccinated against seasonal influenza, although only 37% had been vaccinated against H1N1 influenza. In previous years, rates have never been above 49%.

However, the CDC reported a 97.6% vaccination rate among facilities requiring seasonal flu shots, compared to 64.5% in facilities that only recommended the vaccine. Only 11.1% of facilities had a required policy.

Two particularly large hospital systems have taken on the challenge of implementing a mandatory flu shot policy within the past two years and have seen their compliance rates improve to as high as 98%. Although a mandatory policy eliminates the constant struggle to convince employees to get the shot, it’s not without its own barriers.

In 2008, St. Louis–based BJC HealthCare, one of the largest nonprofit healthcare organizations in the United States with nearly 26,000 employees, made influenza vaccines a condition of employment. After years of voluntary vaccination programs that included incentives, leadership champions, and declination statements, BJC still could not climb above a 71% vaccination rate, according to Hilary M. Babcock, MD, MPH, assistant professor of medicine and medical director of occupational health (infectious diseases) at Barnes-Jewish and St. Louis Children’s Hospitals, both in St. Louis and members of BJC HealthCare.

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—Hilary M. Babcock, MD, MPH

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“[We] really just thought that we had pretty much exhausted all of the voluntary efforts,” Babcock says. “Despite all of these many years of trying, we really hadn’t gotten to where we wanted to be. So that’s really what drove the decision to decide on the mandatory policy. We really felt it was an important patient safety issue to get our staff vaccinated.”

BJC, which offers a wide range of services, from inpatient and outpatient care facilities to primary care facilities and community health and wellness centers, allowed exemptions for medical reasons (e.g., egg allergies, prior allergic reactions, and history of Guillain-Barré syndrome) and religious reasons only.

The system successfully vaccinated 25,561 of its workforce members, a 98.4% vaccination rate, with only 90 religious exemptions and 321 medical exemptions.

“Overall, it went remarkably smoothly,” Babcock says. “Some people certainly were concerned about the policy and the program, but we also had a lot of employees who said that they wished we had done this a long time ago, that they were frustrated by working next to people who weren’t vaccinated or who wouldn’t get vaccinated. They felt that those other workers were exposing them or the other patients, and they were happy that we had made a program that was consistent across the whole system.”

In November 2009, the Hospital Corporation of America (HCA) in Nashville implemented a mandatory policy that required employees who could infect or become infected by a patient to get the seasonal flu vaccine or wear a surgical mask in patient care areas. Prior to the 2009 flu season, vaccination rates had varied from 20% to 74%.

HCA is one of the largest systems in the country with 163 hospitals, 112 outpatient centers, and 368 physician practices in 20 states. Under the mandatory policy, seasonal flu shots were offered to 140,599 employees, and 96% complied. This policy was coupled with a number of other infection prevention policies that were already in place, according to Jonathan Perlin, MD, PhD, MSHA, FACP, FACMI, president of clinical services and chief medical officer at HCA.

“We instituted a policy requiring healthcare workers to receive the seasonal influenza vaccine or wear a mask or be reassigned to non-patient contact roles if they had medical, religious, or philosophical reasons for not getting the vaccine,” Perlin said in a press conference at the Fifth Decennial Conference on Healthcare Associated Infections in Atlanta. “This built on our history of trying to increase vaccination rates through education, convenience of vaccination, and declination forums.”

Even if you’re a smaller facility that is not part of a hospital system, this policy could affect your employees.

“I think it may be easier in the smaller setting to do it as well,” Babcock says. “And I think eventually it may become something that maybe isn’t facility-specific, but state-mandated.”
Communicating your policy

Simply making influenza vaccines mandatory does not replace the need for continued communication of the policy.

At BJC, each facility within the system was responsible for communicating the policy, answering individual questions, and continuing education about the vaccine. Most of the larger facilities established town hall meetings that included an infectious disease specialist, an occupational health professional, an infection prevention nurse, an HR representative, and someone from the legal team to answer questions and talk about the policy, says Babcock.

“I was the infectious disease doctor at the first one, and three people came, and after that really one or two or no people,” she says. “We had about 15 of these scheduled and really nobody came. So in some ways, some people weren’t too excited about it, but almost everyone got vaccinated, and we really didn’t have a huge outpouring of outrage.”

Babcock notes that it’s probably even more important that communication of a mandatory policy is very clear and is presented to employees early in the year rather than weeks before flu season.

“As soon as you decide this is what you are going to do, [it’s important] that you start talking about it and publicizing it and making it clear what the process is for an exemption, that you have people available to talk to those who have concerns about the vaccine so they can have their concerns addressed and alleviated in a timely and reasonable fashion,” she says.

Ultimately, BJC terminated eight employees—two worked in information services in the corporate offices, and the other six included a patient care technician, a paramedic, a laboratory technician, a nurse, a sitter, and a physical therapist.

Facing legal backlash

BJC did not have any labor unions to contend with, which is usually where facilities get tripped up regarding a mandatory vaccination policy.

Virginia Mason Medical Center in Seattle was the first to institute required seasonal flu vaccines in 2004, and it eventually lost two court rulings against the Washington Nurses Association, arguing that the required vaccine policy was a work rule that needed to be negotiated. Virginia Mason then amended its policy to say healthcare workers were required to wear surgical masks during any direct contact with patients if they refused the vaccine.

“They couldn’t make everyone get vaccinated, but they were within their rights as an institution to make unvaccinated people mask, and they’ve had vaccination rates over 98% for the last five years,” Babcock says.

HCA faced a similar situation with the Service Employees International Union (SEIU) in California and Nevada. In Nevada, a judge ordered HCA to remove part of the policy that indicated workers would be fired if they did not get a flu shot, but employees were still required to wear a mask if they did not get the shot.

In California, a judge denied SEIU’s request for a temporary restraining order against HCA on the requirement of masks for employees who did not receive a flu shot. However, the judge claimed the stigmatizing effects of

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Navigating the sticky issues around mandatory flu shots

In the past year, seasonal and H1N1 influenza has prompted many healthcare facilities and some governmental organizations to consider and/or institute mandatory influenza immunization for employees. The reaction from employees, healthcare worker associations and unions, and healthcare professional societies has been unmistakably vocal, both pro and con, as issues of patient safety and workers’ rights clash.

In July, HCPro will offer a 90-minute Webcast to provide you with the medical and legal perspectives for developing a mandatory influenza immunization policy.

For more information on the schedule, speakers, and content, please go to OSHA Healthcare Advisor at www.oshahealthcareadvisor.com.
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wearing surgical masks were better argued by frontline workers and granted arbitration, according to an SEIU press release.

“HCA also experienced resistance in the form of two lawsuits, which we successfully defended, but this nevertheless shows that not everyone was supportive of our policy,” Perlin said during the press conference.

Using exemption forms

One of the most important aspects of the mandatory vaccination policy is ensuring that there is enough room for medical and religious exemptions.

But the crucial part of the policy is using the correct forms for these exemptions. At BJC, those who were medically exempt needed a note from their doctor citing specific reasons why they could not get the flu shot, such as egg allergies or a previous allergic reaction to the shot. Notes were reviewed by occupational health nurses at each facility. In retrospect, however, Babcock says it would have been easier to develop a form that lists the medical contraindications, which allows doctors to check the appropriate exemption.

“We got a lot of letters that didn’t give us enough information for us to make a decision. With forms, it’s a little bit easier to have that information in front of you,” she says.

Religious exemptions required a written letter from the employee that stated a religious conviction opposing the vaccination. That letter was reviewed by HR, and employees were notified within five days if they were exempt.

Timing is everything

BJC was fortuitous and perhaps a little foresightful with the implementation of its mandatory policy. Because the health system implemented the policy in

The legal and ethical side of mandatory vaccinations

In mandating flu shots, you run the risk of alienating employees and also toeing legal and ethical lines.

Terri Rebmann, RN, PhD, CIC, assistant professor at the Saint Louis University School of Public Health, believes facilities should consider both sides of this issue, along with patient safety, before implementing a program.

“Ethically speaking, what the healthcare workers argue is that they have an ethical right and fully expected autonomy to make their own decisions about what medications and vaccinations they will receive or not receive, because there is that risk from a vaccine,” Rebmann says.

Legally, there is some precedent that allows facilities to mandate vaccinations in certain situations, such as a smallpox outbreak, Rebmann says. However, it’s difficult to argue the same degree of risk with H1N1 or seasonal influenza.

“It’s little bit different than something like H1N1, because with smallpox, the mortality rate was so high that it seemed like there was a stronger case for making it mandatory for healthcare workers,” Rebmann says. “With H1N1, it’s a little bit harder to argue that it’s necessary to enforce vaccination.”

Ultimately, it is best to consult your facility’s legal team to develop a consistent policy that adheres to state and national regulations. The legal team was especially helpful when St. Louis–based BJC HealthCare implemented a mandatory vaccination policy within its system, says Hilary M. Babcock, MD, MPH, assistant professor of medicine and medical director of occupational health (infectious diseases) at Barnes-Jewish and St. Louis Children’s Hospitals, both in St. Louis and members of BJC HealthCare.

“I think mainly the legal team was very helpful in just being sure that we had a process to evaluate the exemptions, that it was consistent, that we had a way to define them and apply them that was consistent,” Babcock says. “And to make sure we were congruent with the laws of our state and the national laws about healthcare worker protection, just to be sure we weren’t going against any of those with the policy.”
2008, before H1N1 emerged in April 2009, it easily rolled the H1N1 vaccine into the requirements once it became available.

Babcock says it was much more difficult to implement a mandatory policy this year with the emergence of a new flu strain and a new flu shot. BJC was able to mandate both shots because it had already done the legwork in 2008.

“Again, that went pretty smoothly, but by that point we already had a mandatory program, so people had sort of wrapped their minds around that to start with,” Babcock says.

However, healthcare facilities that are considering a mandatory vaccination policy for the 2010–2011 flu season won’t run into the problem of forcing employees to take two shots. On February 22, the FDA decided to follow the World Health Organization’s advice and fold the H1N1 vaccine into next year’s seasonal vaccine, meaning there will be only one shot for both viruses.

This, coupled with increased attention to pandemic influenza and patient and worker safety, could mean mandatory vaccinations are the future. Already OSHA requires employers to offer the hepatitis B vaccine, although employees do not have to accept it. Additionally, other vaccinations such as MMR and varicella are required by some state health departments, as is some form of TB skin testing.

“I think that there is increasing expectation that healthcare workers will be vaccinated, and it’s becoming more and more of a patient safety issue, similar to other vaccination requirements for healthcare workers,” says Babcock. “There are just certain duties that as healthcare workers we take on to protect our patients, so this is just becoming one of them.”

Although some have IC concerns, reprocessing saves money and cuts down on waste thousands of dollars in purchasing costs while maintaining quality care.

Reprocessed SUDs range from low-risk devices such as blood pressure cuffs or compression sleeves to high-risk devices such as balloon angioplasty catheters or implanted infusion pumps. But because these devices are labeled for single use, some healthcare providers worry that the risk to patient safety is greater than the need to save money or reduce waste.

However, according to a 2008 report from the Government Accountability Office, FDA oversight on reprocessing SUDs has increased, and data, although limited, did not indicate an elevated health risk to patients. A survey conducted by the FDA in December 2001 to February 2002 found 24.2% of all U.S. hospitals reused SUDs. Now as many as 68% of the Practice Greenhealth “Partners for Change” award applicants have implemented SUD reprocessing, according to