

**GOVERNMENT OF PUERTO RICO  
LA FORTALEZA  
SAN JUAN, PUERTO RICO**

Administrative Bulletin Number: OE-2021-058

**EXECUTIVE ORDER OF THE GOVERNOR OF PUERTO RICO, HON. PEDRO R. PIERLUISI, TO DIRECT EVERY PUBLIC AGENCY TO REQUIRE THEIR EMPLOYEES TO RECEIVE A COVID-19 VACCINE IN ORDER TO WORK IN PERSON, AND FOR OTHER PURPOSES RELATED TO SAFEGUARDING THE PUBLIC HEALTH AND SAFETY.**

**WHEREAS:**

Since the World Health Organization (WHO) declared the COVID-19 a pandemic, the whole world is in a constant battle to control and eradicate the virus. Puerto Rico is no exception. Since March 12, 2020—after the first cases were reported on the island— we are in a state of emergency to address this pandemic. From said date on, various executive orders were issued for the purpose of implementing certain restrictive measures aimed at controlling COVID-19 infections on the island. These measures were effective, thus leading to their subsequent elimination—in early July of this year—and the delegation to the Secretary of the Department of Health of the authority to issue the pertinent guidelines.

**WHEREAS:**

Despite the reduction in infections experienced in the last few months, contagion and the consequences thereof continue to raise concerns. To this date, over 194 million people have been infected worldwide and 4.6 million of them have died. In the United States of America, 34.4 million people have been infected and over 610,000 of them have died. Meanwhile, it has been reported that in Puerto Rico over 125,000 persons have been infected and over 2,500 of them have died.

**WHEREAS:**

Regarding the daily positive cases, the data furnished by the Department of Health shows that after cases had decreased in the last few months, since late June 2021, there has been a dramatic increase. The daily average increased to 130 cases, a number that we had no seen since mid- May 2021. This increase has been consistent at the national and global level.

**WHEREAS:**

Regarding the hospitalizations, the statistics show an increase in recent days, up to a total of 140 people. This is consistent with the situation in the United States of America. The data shows an increase in the number of hospitalizations comparable to the numbers seen at the beginning of June 2021.



**WHEREAS:**

In addition to the number of infections and hospitalizations, it is important to evaluate the positivity rate, that is, the percentage of people who test positive to the virus out of all the people who get tested. Even though almost a month ago the positivity rate in Puerto Rico was lower than 1.5%, now, said rate increase to over 7.17%, according to the data of the Department of Health. Certainly, said increase raises concerns and compels the Government to take action to control infection.

**WHEREAS:**

Another important factor in the fight against COVID-19 are the different variants that have spread across the world. Scientific data shows that some of them may be more contagious, while others may cause more severe diseases, among other consequences. One of the most concerning is the Delta variant, which is more easily transmitted and is expected to become more predominant worldwide in the next few months. These variants have rendered herd immunity more difficult. Herd immunity is essential to combat the virus.

**WHEREAS:**

The increase in the positivity rate, infections, and hospitalizations share a factor that cannot be overlooked: unvaccinated people. According to the data of the Department of Health, most infections and hospitalizations are among unvaccinated people. This has led to an increase in community transmission.

**WHEREAS:**

Scientific studies show that COVID-19 vaccines are the most effective measure to control COVID-19. WHO has provided that, currently, there are at least seven (7) safe and effective vaccines that prevent falling seriously ill or dying as a result of being infected with SARS-CoV2. Hence, WHO is encouraging vaccination, even for people who have been infected with COVID-19.

As to the safety thereof, WHO has explained that stringent protection measures have been implemented to guarantee the safety of COVID-19 vaccines. Before their validation by WHO and other national bodies, these vaccines underwent rigorous clinical trials to prove that they met the internationally accepted criteria of effectiveness and safety. To achieve this, an unprecedented scientific collaboration was implemented which has allowed for the feasibility and completion of the research,

development, and authorization stages in a very short timeframe so as to satisfy the compelling need to have the vaccines available, and in turn, ensure the highest levels of safety.



**WHEREAS:**

The U.S. Food and Drug Administration (FDA) has currently issued emergency use authorizations for three (3) COVID-19 vaccines. This means that the use of the vaccine is allowed for treating or preventing a disease that jeopardizes the lives of the people during a public health emergency. It should be noted that over 600 drugs, tests, personal protective equipment, and even ventilators have received emergency use authorizations during the COVID-19 emergency without any major issues reported. In order to allow for the use of the vaccines, the FDA required fulfilling certain regulatory criteria, such as the lack of adequate, approved, and available alternatives. Likewise, given the generalized use of the vaccine, the same level of effectiveness data required for the final approval of a vaccine, sufficient safety data to justify the safety of the vaccine with clear and convincing evidence, and the confirmation of technical procedures and the necessary verification steps were required to support the full approval. To such effects, a chemical, manufacturing, and control information assessment of the vaccines was conducted with sufficient data to ensure the quality and consistency thereof. This FDA assessment was conducted by experts in clinical review, toxicology, biostatistics, products, production facilities, pharmacovigilance, data integrity, bioresearch monitoring, and labeling, among others.

The emergency use authorization of the COVID-19 vaccines was issued after it was rigorously tested in tens of thousands of people and upon the determination by the FDA that the known and potential benefits of the vaccine outweigh its known and potential risks. Scientific data and the data collected upon the administration of over 300 million doses indicate that the benefits outweigh the risks and that the probability of developing serious adverse events is very low.

**WHEREAS:**

The FDA explained that COVID-19 vaccines were developed quickly, given that the Government of the United States gathered government agencies, international counterparts, academic institutions, nonprofit organizations, and pharmaceutical companies to develop a coordinated strategy to accelerate the development of vaccines and make it a priority. Moreover, it invested in their manufacturing capacity thus providing companies with the certainty that they could be aggressively invested in the development stage, and allowing for a faster distribution of the vaccine subsequently. Such efforts did not sacrifice the scientific guidelines, the integrity of the vaccine review process, nor the safety thereof.

**WHEREAS:**

The FDA has been extremely emphatic on the effectiveness of the COVID-19 vaccine in preventing the disease and its serious health consequences including hospitalization and death. In turn, it stated that the available information suggests that authorized vaccines protect against strains or variants currently spreading. Thus, the FDA —the agency concerned with evaluating and authorizing vaccines— has promoted immunization as an effective tool to reduce COVID-19 spreading. Moreover, it has stated that when a person is vaccinated, he opts to protect his children, parents, grandparents, and other relatives.

**WHEREAS:**

In addition to the FDA, the Centers for Disease Control (CDC), has stated that COVID-19 vaccines are safe and effective, especially in preventing serious diseases and death. It asserted that vaccines can prevent people from getting infected or spreading the virus, getting seriously ill even if they get COVID-19, and also help to protect their relatives and the people around them. It reported that vaccines were developed based on scientific knowledge used for decades. In turn, the CDC clarified these vaccines are not experimental, for they have already undergone the clinical trial stages. Given the extent of the vaccination, the vaccines withstood and continue to be submitted to a safety monitoring never before seen in the history of the United States of America.



**WHEREAS:** The CDC has reasserted that COVID-19 continues to pose a threat to unvaccinated people. For such reason, the safest option is to get the COVID-19 vaccine.

**WHEREAS:** In Puerto Rico, vaccination is currently underway. To this date, according to the CDC data, 76.8% of people who are eligible to be vaccinated have been administered at least one doses. Moreover, approximately 66.7% of eligible people are fully vaccinated. Cumulatively, to this day, over 3,995,709 doses have been administered in Puerto Rico. This data and the few adverse reactions reported confirm that COVID-19 vaccines are safe and effective.

**WHEREAS:** It should be noted that 1,900,842 people in Puerto Rico have been fully vaccinated. This means that only 59.5% of the total population of the island is duly vaccinated, which requires us to redouble the vaccination efforts.

**WHEREAS:** According to the scientific data of the Department of Health of Puerto Rico, the COVID-19 vaccine helps to avoid virus mutation and hospitalizations. In accordance with the reported cases, if a person is infected with COVID-19 after been vaccinated, the symptoms shown are mild to moderate and there is a low likelihood of death; the latter is limited to patients with preexisting chronic illnesses. That is, vaccine substantially minimizes the risks. Thus, scientific and official information in Puerto Rico confirms that unvaccinated people are at risk of getting infected, be hospitalized, and even die.



**WHEREAS:** However, the accumulated count of administered doses shows that vaccination has recently decreased, which means that on a daily basis, not many people are been vaccinated. This fact has delayed the goal of achieving herd immunity, which is the moment where the virus cannot spread because the population is protected. Be advised that, until this is achieved, Puerto Rico is at risk of suffering the most severe consequences of COVID-19.

**WHEREAS:** Puerto Rico's situation regarding the vaccine is consistent with

what is happening in other jurisdictions. A little over 13% of the population worldwide has been fully vaccinated, and 27% have received only one doses. In the United States of America over 49.2% only has been fully vaccinated, and 56.9.% have only received one doses, out of all the population. The rise in infections across the world and in the United States is intrinsically related to the lack of vaccination.

**WHEREAS:**

As to the vaccination, in general, the Supreme Court of the United States has examined the power of the State to regulate their use. In *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), the compulsory smallpox vaccination was challenged. When hearing the case, the Court held that the liberty secured by the Constitution of the United States does not import an absolute right, and are subject to such reasonable conditions as may be deemed by the government essential to the safety, health, peace, good order and morals of the community. Moreover, the Court was unwilling to hold it to be an element in the liberty secured by the Constitution of the United States that one person should have the power thus to dominate the majority when supported in their action by the authority of the State.

The foregoing notwithstanding, in *Zucht v. King*, 260 U.S. 174 (1922), the Supreme Court of the United States validated a Texas law making child vaccination a condition to attendance at schools. It concluded that these ordinances confer not arbitrary power, but only that broad discretion required for the protection of the public health.

Hence, in both cases, the Supreme Court of the United States validates the State's authority to compel vaccination in a reasonable manner.

**WHEREAS:**

In Puerto Rico, in *Lozada Tirado v. Testigos de Jehova*, 177 DPR 893 (2010), our Supreme Court recognized that, even though the people have a right to reject medical treatment, this is not an absolute right. Using federal case law (*Cruzan v. Director, Missouri Dept. of Health*, 497 U.S. 261 (1990)) as its basis, the Court concluded that there may be certain interests of the State that may be taken into account, such as the





protection of innocent third parties. The latter applies when seeking to submit citizens to certain medical treatment during a public health crisis. In doing so, it recognized that the State may establish certain vaccines as mandatory requirements when there is a threat of an epidemic. *Id.*, n. 13.

**WHEREAS:**

Certainly, people have the constitutional right to reject medical treatment. However, contrary to individual treatments which do not affect the health of other people, vaccines are aimed at fighting off a collective evil, rather than an individual one. For such reason, they have been considered one of the biggest achievements of the 20<sup>th</sup> century. See, *Bruesewitz v. Wyeth LLC*, 562 U.S. 223, 226 (2011).

**WHEREAS:**

In the case of COVID-19 vaccines, despite the lack of pertinent case law, two (2) US district courts have evaluated if these should be made mandatory. The first was *Bridges v. Houston Methodist Hospital*, 2021 WL 2399994, in which employees of a Texas hospital were required to receive the COVID-19 vaccine. The US District court upheld the hospital's actions and the vaccination mandate.

The second case was *Klaasen et al v. The Trustees of Indiana University*, 2021 WL 3025893, where students and employees were mandated to be fully vaccinated to attend the university in-person. The US District court dismissed the motion for injunction and upheld the mandate for vaccination.

**WHEREAS:**

Consistent with the foregoing, on July 6, 2021, the United States Department of Justice, through its Legal Counseling Office (OLC), issued an Opinion whereby it concluded that the federal provisions for the emergency use authorization of COVID-19 vaccines do not prohibit public and private entities from imposing a SARS-CoV2 vaccination mandate. That is, it is their understanding that Section 564 de la Food, Drug, and Cosmetic Act ("FDCA"), 21 USC sec. 360bbb-3, only requires the person who administers the vaccine to inform individuals of the type of authorization granted, the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and of their benefits and



risks.

**WHEREAS:**

The United States Equal Employment Opportunity Commission stated that employers may require their employees to receive the COVID-19 vaccine, subject to reasonable measures for employees with disabilities or sincerely-held religious beliefs that prevent them from getting vaccinated.

The foregoing notwithstanding, as recently as last Monday, July 26, 2021, various cities and agencies announced that they will require their employees to get vaccinated. The city of New York was the first to make the announcement. Mayor Bill de Blasio ordered all municipal employees to be vaccinated as of September 13, 2021, or alternatively, to get tested for COVID-19 on a weekly basis. Moreover, California was the first state to provide for a similar mandate. Beginning in August, all employees will be required to get vaccinated or alternatively, furnish a negative COVID-19 test. Lastly, The United States Department of Veterans Affairs was the first federal agency to implement a vaccination requirement for its employees.

**WHEREAS:**

Section 5.10 of Act No. 20-2017, as amended, known as the "Puerto Rico Public Safety Department Act," empowers the Governor to, upon declaring a state of emergency or a disaster, to promulgate measures as are necessary to manage the emergency, which measures shall be in effect for the duration of the emergency in order to protect the safety, health, and property of all of the Puerto Rico residents.

**WHEREAS:**

Subsection (b) of Section 5.10 of Act No. 20-2017, provides that the Governor may prescribe, amend, and revoke any regulations as well as issue, amend, and rescind such orders as deemed convenient which shall be in effect for the duration of the state of emergency or disaster. Regulations prescribed or orders issued during a state of emergency or disaster shall have force of law for the duration of the state of emergency or disaster.

**WHEREAS:**

The Government of Puerto Rico is responsible for making every effort to prevent and stop the spread of COVID-19, as





well as to safeguard the health, life, and safety of the residents of Puerto Rico.

**WHEREAS:**

The power to govern a people entails a great responsibility of ensuring the health and safety of the population. In turn, the police power of the State—as delegated to the Executive Power under Act No. 20-2017 – empowers the government to take measures as are necessary to protect the health and safety of its population. That is, it is the inherent power of the State that allows it to issue and promulgate regulations in general to protect the health, the safety, and general welfare. To achieve these benefits for the community, the State is empowered to limit certain personal interests, which are not absolute.

**WHEREAS:**

With the specific objective of protecting the health of the People of Puerto Rico, it is meritorious to take clear and definite actions to ensure that every citizen is healthy, and in turn, guarantee that government services are not interrupted for health reasons. This Government has a compelling and important interest to safeguard the life of the population in general and of the employees who render essential services. Likewise, a necessary step to achieve these goals is to take action to ensure that the people who provide government services are vaccinated, which shall prevent contagion within government facilities. Scientific data and expert opinions show that vaccination is the safest and most effective manner to effectively control and even eradicate COVID-19.

**WHEREAS:**

The COVID-19 pandemic presents a dynamic and changing scenario that requires the Government to redesign its strategies in order to timely manage infections in the population so as to safeguard the medical-hospital resources and, in turn, prevent the collapse of our economy.

**THEREFORE:**

I, PEDRO R. PIERLUISI, Governor of Puerto Rico, by virtue of the powers inherent to my office and the authority vested in me by the Constitution and the Laws of the Government of Puerto Rico, hereby declare and order the following:

**Section 1:**

**PUBLIC EMPLOYEES' VACCINATION REQUIREMENT.** In

order to safeguard the health of the people of Puerto Rico and prevent contagion within government facilities, and in turn, ensure the continuity of government services, I hereby order that, as of the effective date of this Executive Order, all public agencies of the Executive Branch shall require employees who work in-person—except as otherwise provided hereinbelow—to receive a COVID-19 vaccine authorized by the FDA during this emergency. For purposes of this requirement, it shall be sufficient to show that, as of the effective date of this Executive Order, the employee has already started the vaccination process. However, employees shall comply with and furnish proof to his employer of the subsequent administration of the second doses, in the event that the vaccine administered is a two-dose series vaccine. The deadline to complete this is September 30, 2021.

Every appointing authority, or their delegates, shall be responsible for requesting its employees to furnish the COVID-19 Vaccination Record Card or document attesting to the completion or beginning of the vaccination process. Moreover, every employee shall be responsible for furnishing their COVID-19 Vaccination Record Card or document attesting to the completion of the vaccination process in order to work in-person at the government facilities. The vaccination record may be furnished in another authorized physical or digital format to certify vaccination.

**Section 2:**

**EXCEPTIONS.** For the purposes of this Order, the employees whose immune system is compromised, are allergic to vaccines, or have a medical contraindication to the receipt of a vaccine shall be exempt from the COVID-19 vaccination requirement. This shall be certified by a physician authorized to practice in Puerto Rico. The physician shall also certify the duration of the medical contraindication and whether it is temporary or permanent. In the event that it is temporary, once the contraindication ceases, the person shall fulfill the vaccination mandate established in this Order.

Moreover, refusal to be vaccinated is hereby permitted—as an exception—on the basis of religious beliefs, provided that the



vaccines are against the employee's religious observance. To comply with this exception, the employee must furnish an affidavit of religious objection whereby the employee, together with the minister or spiritual leader of his church or religion, state under oath and under penalty of perjury that on the basis of his religious beliefs, the employee cannot receive a COVID-19 vaccine.

Persons who could not be vaccinated for any of the aforementioned exceptions, may work in-person taking all the pertinent security measures, including using a face mask, observing physical distancing, and any other as provided by the Secretary of the Department of Health from time to time. In addition, every week, these employees shall be tested through a qualified virus test SARS-CoV2 (Nucleic Acid Amplification Test or NAAT and antigen tests) performed within a maximum of seventy-two (72) hours prior and furnish the negative result or a positive COVID-19 test result performed within the last three (3) months, together with the pertinent documents of the employee's recovery, including a letter from a certified healthcare provider or a government health officer certifying that said person is recovered and is ready to be at a public place. The appointing authorities of public agencies, or their delegates, shall ensure compliance with the foregoing at the beginning of each week.

**Section 3:**

**VACCINATION REFUSAL.** Any government employee to which this Executive Order applies who fails to furnish the COVID-19 Vaccination Record Card or document attesting to the completion or beginning of the vaccination process, shall be responsible for furnishing on the first business day of each week—for the duration of the emergency declared in Administrative Bulletin No. OE-2020-020—a negative COVID-19 test result from a qualified virus test SARS-CoV2 (Nucleic Acid Amplification Test or NAAT and antigen tests) performed within a maximum of seventy-two (72) hours. Moreover, such employee can furnish a positive COVID-19 test result performed within the last three (3) months, together with the pertinent documents of the employee's recovery, including a letter from a certified healthcare provider or a government



health officer certifying that said person is recovered and ready to return to work. In addition, said employee shall be required to take all the pertinent security measures, including using a face mask, observing physical distancing, and any other as provided by the Secretary of the Department of Health from time to time.

Any employee who fails to furnish the COVID-19 Vaccination Record Card, the weekly negative COVID-19 test result, or the positive COVID-19 test result enclosed with the recovery documents, and who does not comply with exceptions provided in this Executive Order may not work in person. For such reason, said employees shall be afforded the option to use their compensatory time or regular leaves available as applicable. If the employee has depleted any accrued leaves, the employee may request an unpaid leave for the duration of the emergency.

**Section 4:**

**GUIDELINES AND REGULATIONS.** The Human Resources Transformation and Administration Office of the Government of Puerto Rico (HRATO), in collaboration with the Department of Health, are hereby directed to establish guidelines and regulations as pertinent to enforce the provisions of this Executive Order. Furthermore, it shall be empowered to interpret the provisions herein.

**PRIVATE AND MUNICIPAL EMPLOYERS, AND OTHER GOVERNMENT BRANCHES.** The Legislative Assembly, the Judicial Branch, the public corporations, municipalities, and private employers are hereby recommended to take similar measures to the ones herein in order to guarantee and protect the lives of its employees and visitors and those who need their services.

**Section 5:**

**Section 6:**

**COMMERCIAL ESTABLISHMENTS AND PRIVATE ENTITIES.** It is recommended that all commercial establishments and private entities that are open to the public demand from any person who intends to visit their facilities a vaccination card, a negative COVID-19 test result from a qualified SARS-CoV2 (Nucleic Acid Amplification Test or NAAT and antigen tests) performed within a maximum of seventy-two (72) hours, or a positive COVID-19 test result performed



within the last three (3) months, together with the pertinent documents of the employee’s recovery, including a letter from a certified healthcare provider or a government health officer certifying that said person is recovered and ready to visit public places.

**Section 7:**

**DEFINITION OF “AGENCY”.** For the purposes of this Executive Order, the term “Agency” refers to any agency, instrumentality, office, or department of the Executive Branch of the Government of Puerto Rico, including public corporations, regardless of its name.

**Section 8:**

**NON-CREATION OF ENFORCEABLE RIGHTS.** This Executive Order is not intended to create any rights, substantive or procedural, enforceable at law or equity, by any person or entity, in any matter, civil, criminal, or administrative, against the Government of Puerto Rico or its agencies, officials, employees, or any other person.

**Section 9:**

**SEVERABILITY.** The provisions of this Executive Order are separate and independent from each other, and if any part, section, provision, or sentence of this Executive Order is held to be unconstitutional, void, or invalid by a court with competent jurisdiction, such holding shall not affect the validity of the remaining provisions, which shall remain in full force.

**Section 9:**

**REPEALING CLAUSE.** This Executive Order renders ineffective any parts of such other executive orders that are inconsistent, whether in whole or in part, with the provisions herein to the extent of such inconsistency.

**Section 10:**

**PUBLICATION.** This Executive Order must be filed immediately with the Department of State and the broadest possible publication is hereby ordered.

**Section 11:**

**VALIDITY.** This Executive Order shall take effect on August 16, 2021, and shall remain in effect until the emergency declared in Administrative Bulletin No. OE-2020-020 is rendered ineffective, or until this Order is amended or repealed by a subsequent Executive Order or by operation of

law.

**IN WITNESS WHEREOF**, I hereby issue this Executive Order under my signature and cause the Great Seal of the Government of Puerto Rico to be affixed in La Fortaleza, San Juan, Puerto Rico, on this 28<sup>th</sup> day of July of 2021.



PEDRO R. PIERLUISI  
GOVERNOR

Promulgated in accordance with the law on this 28th day of July of 2021.

OMAR J. MARRERO DÍAZ

SECRETARY OF STATE

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.