

BEST PRACTICES

RISK MANAGEMENT RESOURCE

MASK POLICY RECOMMENDATIONS

ABOUT NORCAL GROUP

The NORCAL Group of companies provide medical professional liability insurance, risk management solutions and provider wellness resources to physicians, healthcare extenders, medical groups, hospitals, community clinics, and allied healthcare facilities throughout the country. NORCAL Group includes NORCAL Mutual Insurance Company and its affiliated insurance companies. Please visit norcaldgroup.com/companies for more information.

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Recommendations contained in this document are not intended to determine the standard of care, but are provided as risk management advice. Recommendations presented should not be considered inclusive of all appropriate risk management strategies or exclusive of other strategies reasonably directed to obtain the same results. The ultimate judgment regarding the propriety of any specific procedure must be made by the physician/ healthcare provider in light of the individual circumstances presented by the patient.

Many practices are encountering patients and staff who are refusing to wear a face mask. This refusal may be based upon a medical issue, disability, or non-compliance. Practices should have policies and procedures in place to protect the safety of patients and staff in these situations. It is important to consider certain situations where it may not be feasible for patients or staff to wear a mask and to be prepared for multiple scenarios.

Asking staff, patients, and visitors to wear a mask while in the clinic is a reasonable request to provide a safe environment for staff, patients, and visitors. Individual rights protected by the ADA as well as State and Federal legal considerations, must be balanced with national public health authority guidance to protect the health and safety of all during the COVID era.

Wearing masks is for the safety of everyone in the clinic or practice. It is unknown how widespread mask refusal is but setting clear expectations including creating, reviewing, or revising your mask use policies and procedures is crucial.

Considerations when Developing a Policy for Employees

ADA Considerations

- Personnel are entitled under ADA to reasonable modifications or accommodations for mask wearing.
- Requests for exceptions due to medical conditions do not necessarily need to be honored under the ADA in all circumstances.
- Seek to understand an employee's disability in order to accommodate their disability.
- Become familiar with Americans with Disability Act and State and local ordinances.
- Seek counsel of an attorney familiar with ADA issues.

Alternatives

- Have N95 masks and other applicable PPE for staff in situations where patients can be seen without a mask.
- Work from home is a potential alternative depending on work duties.
- Consider making N95 masks available depending on the ability for fit testing for adequate functionality.

Considerations when Developing a Policy for Patients and Visitors

ADA Considerations

Revised:

- Patients are entitled under ADA to reasonable modifications or accommodations for mask wearing.
- Do not ask patients to show proof of their disability when they state they are disabled.
- When patients decline to wear a mask, you may ask if the reason they are unable is related to a disability.
- Requests for exceptions due to medical conditions do not necessarily need to be honored under the ADA in all circumstances.
- Become familiar with Americans with Disability Act and State and local ordinances.
- Seek counsel of an attorney familiar with ADA issues.

Alternatives

- Ask the patient to wear a mask while being monitored with pulse oximetry in the clinic/practice. Observe for an adverse reaction.
- Have clear face shields available for patients when applicable.
- Offer a telehealth visit instead of an onsite appointment.
- If the patient can be seen without a mask, offer to schedule as the last patient of the day and consider using alternative entrance points as applicable.
- Have N95 masks and other applicable PPE for staff in situations where patients can be seen without a mask.
- Depending on the service requested, consider offering to see the patient after the pandemic is over.
- Have masks available for patients that forget or do not have their own.
- Consider curbside visits, while patients stay in their car.

Revised: