

Janet T. Mills  
Governor

Jeanne M. Lambrew, Ph.D.  
Commissioner



Maine Department of Health and Human Services  
Commissioner's Office  
11 State House Station  
Augusta, Maine 04333-0011  
Tel; (207) 287-2674; Fax (207) 287-2675  
TTY: Dial 711 (Maine Relay)

**FAQs: “An Act to Establish the COVID-19 Bill of Rights”, Part D, passed to be enacted on March 12, 2021 (LD 1)**

March 25, 2021

**Can all Point-of-Dispensing COVID-19 vaccine sites (PODs) make use of the delegation authority in LD 1?**

No. Only PODs that have entered into a written Memorandum of Understanding (MOU) with the Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine DHHS/CDC) are eligible to use the delegation authority provided in LD 1.

**Under LD 1, who can serve as an on-site clinician in charge and thus have the ability to delegate vaccine administration at PODs?**

Pursuant to LD 1, any on-site clinician in charge must be a currently licensed physician, advanced practice registered nurse, or physician assistant. The MOU that a site enters into will ask for the name and title of any on-site clinician in charge. Because this could change over time, the PODs must document all designated on-site clinicians in charge and provide the name and title of on-site clinicians in charge on a monthly basis to [Kelly.D.Roman@maine.gov](mailto:Kelly.D.Roman@maine.gov) pursuant to the requirements of the MOU. The regularly updated list will be an addendum to the MOU.

**For how long must an MOU and any addenda between DHHS/CDC and the POD be maintained?**

Maine DHHS/CDC and a POD must each retain a copy of the MOU for a period of 3 years.

**Do PODs that have a MOU with Maine DHHS/CDC and any on-site clinician in charge who delegates vaccine administration pursuant to LD 1 have to maintain any documentation other than the MOU?**

Yes. The POD and any on-site clinician in charge are each responsible for retaining a record of the name of each individual to whom vaccine administration is delegated and evidence of their completion of any required training and observation period. These records must be retained for a period of 3 years.

**Must the clinician in charge be on-site or can the clinician in charge be a phone call away?**

LD 1 is clear that the clinician in charge must be on-site in order to ensure appropriate vaccine administration protocols and policies are followed, vaccines are being appropriately administered, and reactions are closely monitored and appropriately addressed.

**Where can I find the U.S. Centers for Disease Control and Prevention (US CDC) COVID-19 Vaccine Training materials referenced in LD 1?**

The U.S. CDC COVID-19 Vaccine Training materials can be found [here](#).

**To whom can an on-site clinician in charge at a POD with a MOU with Maine DHHS/CDC delegate vaccine administration?**

LD 1 provides that any on-site clinician in charge who is a physician, advanced practice registered nurse or physician assistant may delegate the administration of COVID-19 vaccines within the State to employees, staff, agents, or volunteers as long as the employees, staff, agents or volunteers have completed any training and observation required by LD 1 and are subject to the supervision and control of the POD and any on-site clinician in charge. These individuals include but are not limited to the following:

- Employees/staff/agents who are health care professionals, administrative or support personnel employed or contracted by the POD who have been appropriately trained to administer vaccines; and
- Volunteers such as health care professionals, including those who do not have the ability to administer vaccines within their scope of practice (e.g. dentists, veterinarians, etc.), retired health care professionals, students (e.g. medicine, nursing, etc.), members of [Maine Responds](#), members of the National Guard, and other individuals who have received the appropriate training and observation to safely and effectively administer vaccines.

**Can certain health care professionals who have been retired for two years or less perform vaccine administration without the delegation authority in LD 1?**

Yes, physicians, physician assistants, and nurses who seek to have their licenses reactivated pursuant to [Executive Order \(EO\) 16 19/20](#), and who retired in good standing in Maine within two years of the date of the EO (March 20, 2020) and have no disciplinary or adverse actions in the past ten years are able to have their licenses reactivated immediately upon request and the license remains valid during the current state of emergency. If vaccine administration is within their scope of practice, then they can administer vaccines without the delegation authority provided in LD 1; however, they will still be required to document the completion of the U.S. CDC COVID-19 Vaccine Training Modules.

**Does LD 1 provide greater flexibility in delegating vaccine administration to trained student (e.g. nursing, medical, etc.) volunteers?**

Yes. Students who volunteer at a POD that has a MOU with the Maine DHHS/CDC may administer vaccines pursuant to the delegation authority of LD1 (with appropriate training in administering vaccines as determined by their school or training program and supervision by a currently practicing health care professional experienced in administering intramuscular injections) without faculty oversight. Whether the student may accrue clinical hours that are applicable to the student's degree or certification is dependent upon the student's program/educational institution and any arrangements made with the POD.

**Can pharmacists serve as on-site clinicians in charge of a POD?**

No. On-site clinicians in charge of PODs that have a MOU with the Maine DHHS/CDC are limited to physicians, advanced practice registered nurses and physician assistants.

**Does LD 1 enable a pharmacist to delegate vaccine administration?**

No. LD 1 does not permit pharmacists to serve as on-site clinicians in charge of a POD or delegate vaccine administration; however, the [Public Readiness and Emergency Preparedness Act \(PREP Act\)](#) and subsequent Declarations and Amendments allow pharmacists to delegate vaccine administration to pharmacy interns and technicians. Accordingly, pharmacists can be onsite at a POD location and delegate to pharmacy interns and technicians pursuant to the PREP Act, regardless of whether a POD is using the delegation authority of LD 1 pursuant to an MOU. Guidance concerning this federal policy and Maine’s implementation of it can be found [here](#) and [here](#).

**Do you need an on-site clinician in charge as well as a supervising clinician at each site?**

No. Only one on-site “clinician in charge” (physician, advanced practice registered nurse or physician assistant) needs to be on-site for the delegation authority for vaccine administration to be implemented. If the on-site clinician in charge who is serving as a supervising clinician is not named in the MOU that the POD has with the Maine DHHS/CDC, then the name and title of the on-site clinicians in charge must be documented and submitted to Maine DHHS/CDC on a monthly basis as an addendum to the MOU.

**Can a Critical Access Hospital (CAH) that has an approved waiver, which allows the CAH to operate without a clinician on-site at all times, use the vaccine administration delegation authority without an on-site clinician in charge?**

No. LD 1 is clear that the clinician in charge must be on-site and the individuals to whom the vaccine administration has been delegated must be under the control and supervision of that clinician.

**If a clinician, pursuant to State law, has delegation authority, do they have to comply with the requirements of LD 1?**

No. On-site clinicians in charge who exercise delegation authority pursuant to other State laws such as 32 MRS §3270-A or 32 MRS § 2205-B(4) are not required to comply with the requirements LD 1; however, their delegation authority is restricted to the confines of the other State law.

**Can a volunteer who has an active Maine license and is a physician, advanced practice registered nurse or a physician assistant, but isn’t an employee of or credentialed by the health system operating the POD, serve as the on-site clinician in charge?**

LD 1 would permit this scenario; however, whether this is possible depends on the health system’s policies regarding non-employed, non-credentialed providers and any agreement reached between the health system and the volunteer, given the related liability associated with being the on-site clinician in charge.

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*The information contained in this document is for general informational purposes only and is not intended as legal or business advice.*

Additional Resources:

Pursuant to Maine law, the following health care providers with active clinical licenses issued by the State of Maine can vaccinate with an intramuscular shot:

- Physicians
- Physician Assistants
- Licensed practical nurses
- Registered Professional Nurses
- Advanced Practice Registered Nurses
- Pharmacists
- Naturopathic Doctors

Any Point-of-Dispensing COVID-19 vaccine site may also avail themselves of the delegation authority provided by the federal [Public Readiness and Emergency Preparedness Act](#) (PREP Act) or in any subsequent Declaration or Amendments under the Act. A [factsheet](#) for the [Seventh Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19](#) is available. The State will provide no further guidance on this federal law.