

CERTIFICATION OF EMERGENCY RULES  
FILED WITH LEGISLATIVE SERVICES AGENCY  
OTHNI LATHRAM, DIRECTOR

(Pursuant to Code of Alabama 1975, §41-22-5(b) and 41-22-6(c) (2)  
a. and b.)

I certify that the attached emergency new rules is a correct copy  
as promulgated and adopted on the 18th day of November 2021.

AGENCY NAME: Alabama Department of Labor

RULE NO. & TITLE: 480-9-1 Vaccination Exemptions.

EFFECTIVE DATE OF RULE: November 18, 2021

EXPIRATION DATE (If less than 120 days): March 18, 2022

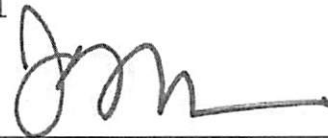
NATURE OF EMERGENCY: The Alabama Legislature passed Alabama Act 2021-561 mandating that employers requiring employees to receive a COVID-19 vaccination as a condition of employment must provide access to a vaccination exemption claim form. The Act additionally requires ADOL to adopt emergency rules establishing a process for the employee to appeal the employer's denial of a claim of exemption with an ALJ appointed by the Secretary of Labor.

STATUTORY AUTHORITY: Alabama Act 2021-561

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS  YES  NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

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General Counsel

REC'D & FILED

NOV 18 2021

LEGISLATIVE SVC AGENCY

FILING DATE  
(For APA Use Only)

**ALABAMA DEPARTMENT OF LABOR  
ADMINISTRATIVE CODE**

**CHAPTER 480-9-1-ER  
VACCINATION EXEMPTION**

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**480-9-1-.01ER** **Definitions.**

- (1) **Administrative Law Judge (ALJ)** - A professional hearing officer utilized by the Department to review and make determinations of requests for administrative reviews filed by employees who have had a claim of exemption for COVID-19 Vaccination denied by their employer.
- (2) **Department** - The Alabama Department of Labor, 649 Monroe Street, Montgomery, Alabama 36131, <https://vaxexemption.alabama.gov>.
- (3) **Exemption** - A properly completed vaccination exemption claim form filed by an employee with their employer electing to be exempt from vaccination because of certain medical conditions or due to a sincerely held religious belief.
- (4) **Licensed Health Care Provider** - means a physician, physician assistant, advanced registered nurse practitioner or nurse who is licensed, certified, or registered in accordance with laws and regulations in this or another state.
- (5) **Vaccination** - Any injection intended to prevent the spread of COVID-19 or minimize the effects of COVID-19, irrespective of whether or not the

injection meets the classical definition of vaccine.

**480-9-1-.02ER General Provisions.**

- (1) Alabama employers may not require any employee to receive a vaccination as a condition of employment without providing the employee the opportunity to be exempted from the vaccination for religious or medical reasons.
- (2) Alabama employers requiring a vaccination as a condition of employment shall be responsible for providing an exemption claim form to all of its employees, along with instructions for submitting to the employer.
- (3) Alabama Employers needing to provide an exemption claim form to its employees can locate a blank copy of the form at <https://vaxexemption.alabama.gov>.
- (4) Once a completed exemption claim form is returned to the employer, the employer shall evaluate the request and liberally construe the employee's eligibility for exemption in favor of the employee.
- (5) The employer shall exempt vaccination as a condition of employment for any employee who has properly completed and submitted the exemption claim form.

**480-9-1-.03ER Medical Exemptions from Vaccination.**

- (1) The following medical conditions are required to be exempted from vaccination by the employer:
  - (a) When a health care provider has recommended to the employee that they refuse the COVID-19 vaccination based on current health conditions and medications. Such a claim of exemption must include a signature from a licensed health care provider.

- (b) When the employee has previously suffered a severe allergic reaction (e.g., anaphylaxis) related to past vaccinations.
- (c) When the employee has previously suffered a severe allergic reaction related to receiving polyethylene glycol or products containing polyethylene glycol.
- (d) When the employee has previously suffered a severe allergic reaction related to receiving polysorbate or products containing polysorbate.
- (e) When the employee has received monoclonal antibodies or convalescent plasma as part of a COVID-19 treatment in the past 90 days.
- (f) When the employee has a bleeding disorder or is taking a blood thinner.
- (g) When the employee is severely immunocompromised such that receiving the COVID-19 vaccination creates a risk to their health.
- (h) When the employee has been diagnosed with COVID-19 in the past 12 months.

**480-9-1-.04ER Religious Exemption from Vaccination.**

- (1) An employer shall grant an exemption from vaccination to any employee who files an exemption claim form affirming that receiving a COVID-19 vaccination conflicts with their sincerely held religious beliefs, practices, or observances.

**480-9-1-.05ER Review by Administrative Law Judge.**

- (1) In the event an employer denies a request for exemption, the employer MUST provide the employee with instructions on how to file a request for

administrative review with the Department no later than the latter of seven (7) calendar days following the denial of the request for exemption or three (3) business days following the adoption of this administrative rule.

- (2) Requests for administrative review shall be filed using the Vaccination Exemption Portal <https://vaxexemption.alabama.gov>. Requests for administrative review will not be accepted using any other method.
- (3) In requesting an administrative review, the employee shall submit a copy of the denied request form by the employer and must include a valid email address for both the employee and the employer/employer representative. In addition, the employee may submit copies of any other documentation he/she wishes for the ALJ to consider in rendering a decision. Once submitted, the Department will accept no further submissions on behalf of the employee.
- (4) Upon receiving a timely request for administrative review, ADOL will notify the employer and grant them three (3) business days in which to submit any documentation or evidence (including any affidavit from an employer representative) it wishes for the ALJ to consider in rendering a decision. Once submitted, the Department will accept no further submissions on behalf of the employer.
- (5) Any application, for administrative review, exemption claim form, documentation submitted either in favor of or in opposition to the claim for exemption that is filed with the Department is strictly confidential and not open to public inspection.
- (6) Upon receipt by the ALJ of a request for administrative review, the ALJ shall perform an administrative review of the claim of exemption. In their review, the ALJ shall review the exemption claim form and any supporting documentation to confirm the following:

- (a) The employee has properly selected an appropriate reason for claiming an exemption.
  - (b) The employee has provided an appropriate signature and date indicating that they swear or affirm the request is true and accurate and that they understand that false or misleading information is grounds for discipline, up to and including termination from employment.
  - (c) If the employee makes a claim of exemption based on a health care provider's recommendation to refuse the COVID-19 vaccination based on a current health condition and medication, that the licensed Health Care Provider's name, signature, and date is also provided.
- (7) In the administrative review, the ALJ shall also review all documentation or evidence (including affidavits) submitted by the employer in opposition to the claim of exemption.
  - (8) There shall be no live hearings granted by the ALJ in reviewing a claim of exemption.
  - (9) The ALJ shall issue a ruling on the request for exemption within thirty (30) calendar days of receiving all documentation submitted for the administrative review of the claim of exemption.
  - (10) The ALJ's ruling shall not be required to provide for any findings of facts or conclusions of law but rather shall uphold or reverse the employer's denial of the claim of exemption.
  - (11) If the ALJ's ruling upholds the denial of the claim of exemption, the ruling shall include instructions that the employee has fourteen (14) calendar days following the ruling in which to appeal to the circuit court of the county of their residence.

**Author:** Joseph S. Ammons, General Counsel.

**Statutory Authority:** Alabama Act 2021-561.

**History:** New Rule Filed November 18, 2021; Emergency Rule filed November 18, 2021.

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control \_\_\_\_\_ Department or Agency: Alabama Dep't of Labor  
Rule No. 480-9-1  
Rule Title: Vaccination Exemptions  
 New \_\_\_\_\_ Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference \_\_\_\_\_

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? NO

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? NO

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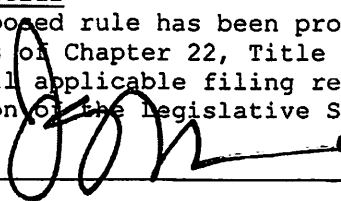
Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer 

Date 11-18-21

(DATE FILED)  
(STAMP)