

# Consent for COVID-19 Vaccinations

Jill D. Moore, MPH, JD  
UNC School of Government  
February 2021

1

---

---

---

---

---

---

---

---

## The Vaccine



2

---

---

---

---

---

---

---

---

## Emergency Use Authorizations (EUAs)

- Allows use of vaccines (and other medical products) that have not yet received full FDA approval in certain emergency situations, including a public health emergency
- Applications for EUAs for COVID-19 vaccines must include safety and efficacy data from trials with participants who received either vaccine or placebo
  - Safety: Side effects (e.g., sore arms, minor symptoms) and adverse events (e.g., serious allergic reaction)
  - Efficacy: Incidence of illness, serious illness/hospitalization, and death from COVID-19 in vaccinated group vs. placebo group



3

---

---

---

---

---

---

---

---

EUAs as of 2/26/2021

Product	EUA Date	Dosage	Age Groups
Pfizer	December 11, 2020	2 doses 21 days apart	16 and older
Moderna	December 18, 2020	2 doses 28 days apart	18 and older
Johnson & Johnson	In progress: <ul style="list-style-type: none"> <li>February 4: Application submitted</li> <li>February 26: FDA meeting</li> <li>If FDA endorses, CDC meeting will follow promptly and EUA may issue shortly after that</li> </ul>	1 dose	Expected to be 18 and older

---

---

---

---

---

---

---

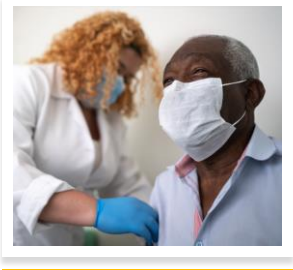
---

---

---

4

Vaccination




---

---

---

---

---

---

---

---

---

---

5

You have a spot, take your shot. A tested, safe and effective vaccine will be available to all who want it, but supplies will be limited at first. To save lives and slow the spread of COVID-19, independent state and federal public health advisory committees recommend first protecting health care workers, people who are at the highest risk of being hospitalized or dying, and those at high risk of exposure to COVID-19. Keep practicing the 3 Ws—wear a mask, wait six feet apart, wash your hands—until everyone has a chance to get vaccinated.

- 1 Health Care Workers and Long-term Care Staff and Residents** ACTIVE GROUP
- 2 Older Adults** ACTIVE GROUP
- 3 Frontline Essential Workers** Feb. 24: Active for child care & preK-12 education  
Mar. 10: Active for all others in this group
- 4 Adults at High Risk for Exposure and Increased Risk of Severe Illness**
- 5 Everyone**

Our goal is to vaccinate as many people as quickly as possible given the limited supply of vaccines. North Carolina moves through vaccination groups by aligning to federal priorities while empowering local health departments and hospitals with flexibility to move to the next priority group as they complete groups and have vaccines available.

---

---

---

---

---

---

---

---

---

---

6



You have a spot, take your shot. A tested, safe and effective vaccine will be available to all who want it, but supplies will be limited at first. To save lives and slow the spread of COVID-19, independent state and federal public health advisory committees recommend first protecting health care workers, people who are at the highest risk of being hospitalized or dying, and those at high risk of exposure to COVID-19. Keep practicing the 3 Ws—wear a mask, wait six feet apart, wash your hands—until everyone has a chance to get vaccinated.

- 1 Health Care Workers and Long-term Care Staff and Residents ACTIVE GROUP
- 2 Older Adults ACTIVE GROUP
- 3 Frontline Essential Workers Feb. 24: Active for child care & preK-12 education  
Mar. 10: Active for all others in this group
- 4 Adults at High Risk for Exposure and Increased Risk of Severe Illness
- 5 Everyone



Our goal is to vaccinate as many people as quickly as possible given the limited supply of vaccines. North Carolina moves through vaccination groups by aligning to federal priorities while empowering local health departments and hospitals with flexibility to move to the next priority group as they complete groups and have vaccines available.

10

---

---

---

---

---

---

---

---

---

---

### More information

North Carolina COVID-19 Vaccination website: [YourSpotYourShot.nc.gov](https://YourSpotYourShot.nc.gov)

Tools:

- Find My Vaccine Group
- Find a Vaccine Location

Other Resources: FAQs, flyers, guidance documents, data, etc.



11

---

---

---

---

---

---

---

---

---

---

## Consent to Vaccination



12

---

---

---

---

---

---

---

---

---

---

## General rules: Adults (age 18+)

- Adults may consent for themselves unless they lack capacity to consent
- Adults who cannot make or communicate health care decisions need a substitute decision-maker
- G.S. 90-21.13 specifies substitute decision-makers in priority order:
  - Health care agent appointed in valid health care POA, to the extent POA allows and unless suspended by court in accordance with G.S. 35A-1208(a)
  - Guardian of the person or general guardian appointed pursuant to G.S. Ch. 35A, Art. 5
  - Other health care agent appointed by the patient
  - Patient's spouse
  - Majority of patient's reasonably available parents and children age 18+
  - Majority of patient's reasonably available siblings age 18+
  - Individual with established relationship with the patient who is acting in good faith on behalf of the patient and can reliably convey patient's wishes

---

---

---

---

---

---

---

---

---

---

13

## General rules: Emancipated minors

- Emancipated minor (G.S. Ch. 7B Art. 35):
  - Married (age 14+)
  - Court order of emancipation (age 16+)
- Emancipated minors may consent for themselves unless they lack capacity to consent. G.S. 90-21.5(b).
- An emancipated minor who cannot make or communicate health care decisions needs a substitute decision-maker. See G.S. 90-21.13.

---

---

---

---

---

---

---

---

---

---

14

## Unemancipated minors (< 18)

- General rule: Unemancipated minors need consent of parent, guardian, or person standing in loco parentis. See, e.g., *Adams v. Tessener*, 354 N.C. 57 (2001) (discussing fundamental right of parents to care, custody, and control of child); see also G.S. 7B-3400; 90-21.1.
- Exceptions:
  - Emergency/urgent circumstances in which parent's consent cannot reasonably be obtained during the time treatment is needed. G.S. 90-21.1.
  - Parent executes a type of POA that authorizes another to consent to treatment for the minor. G.S. Ch. 32A Art. 4.
  - Minor may give effective consent for certain medical health services, **including services for the prevention of reportable communicable disease**. G.S. 90-21.5
- **Special rule for immunizations:** A physician or local health department may immunize a minor who is presented for immunization by an adult who attests in writing that the minor's parent has authorized the adult to obtain the immunization. G.S. 130A-153(d).

---

---

---

---

---

---

---

---

---

---

15

### Consent for Juveniles in DSS Nonsecure Custody (G.S. 7B-505.1)

- Subsection (a): Unless court orders otherwise, DSS director may arrange for, provide, or consent to:
  - **Routine medical and dental care or treatment**, including treatment for common pediatric illnesses and injuries that require prompt intervention
  - Emergency medical, surgical, psychiatric, psychological, or mental health care or treatment
  - Testing and evaluation in exigent circumstances.
- Subsection (b) addresses child medical evaluations.
- Subsection (c): Director shall obtain authorization from juvenile's parent, guardian, or custodian to consent to care not covered by (a) and (b), **including immunizations when it is known that the parent has a bona fide religious objection to the standard schedule of immunizations.**
  - Exception: Court may authorize director to provide consent after a hearing at which court finds by clear and convincing evidence that the care, treatment, or evaluation requested is in the juvenile's best interest.
- G.S. 7B-903.1(e): Provisions of 7B-505.1 apply to juveniles in custody pursuant to G.S. 7B-903

16

---

---

---

---

---

---

---

---

---

---

### Are immunizations generally considered routine medical care?

- No statutory definition of *routine*; no cases
- Subsection (c)'s requirement for parental authorization to the *standard schedule of immunizations* only when there is a *known parental religious objection* suggests that these are routine
  - The term is undefined but may refer to immunizations required for school or child care. See G.S. 130A-155; 10A N.C.A.C. 41A .0401
- A conclusion that immunizations are routine is consistent with health care provider guidelines for assessing immunization status and offering immunizations as regular component of pediatric care
  - See, e.g., N.C. Pediatric Society, *Fostering Health NC Provider Guide* (2016)

17

---

---

---

---

---

---

---

---

---

---

### Is COVID-19 vaccination routine?

- No clear answer
- One hand:
  - Recommendations of CDC Advisory Committee on Immunization Practices (ACIP) already endorse COVID-19 vaccination for patients age 16+
  - Expected that ACIP will endorse for younger patients, if/when clinical trials demonstrate safety and efficacy and FDA authorizes use in these age groups
- Other hand:
  - Initial products will be under EUJAs
  - COVID-19 vaccination is not part of the "standard schedule of immunizations" in North Carolina

18

---

---

---

---

---

---

---

---

---

---



Questions?

Jill Moore  
UNC School of Government  
moore@sog.unc.edu  
919-966-4442



---

---

---

---

---

---

---

---