Insights | COVID-19

Mask Exemptions During the COVID-19 Pandemic—A New Frontier for Clinicians

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Masking or face covering amid the global coronavirus disease 2019 (COVID-19) pandemic has emerged as a highly polarizing practice, with surprising partisan divisions. While masking remains contentious, there is bipartisan agreement among policy makers that medical exemptions for masking are necessary and appropriate. Yet there is a dearth of guidance for clinicians on how to approach a request for an exemption. We analyze the medical and legal standards to guide this debate.

Masking Exemptions—A New Frontier

The Centers for Disease Control and Prevention (CDC) has recommended face covering in public to avoid the spread of COVID-19. This **recommendation** applies broadly to all people older than 2 years, unless they have difficulty breathing or are incapacitated. **States**, municipalities, and businesses have set their own standards in masking requirements. There is, however, a dearth of evidence as to what conditions may warrant a medical exemption from this requirement. Within this gap, a new concern has emerged. A small but vocal group of people in the US have **rejected calls for masking**, with some claiming a medical exemption.

Practicing clinicians are faced with a new clinical quandary: amid a pandemic, individuals present to primary care offices requesting exemptions from masking requirements. Best current evidence shows that masking is effective at preventing viral spread, protecting primarily the public, although it likely offers protection to the mask wearer as well.[1,2] Thus, a delicate balance arises between the public health interest and individual disability modifications. Inappropriate medical exemptions may inadvertently hasten viral spread and threaten public health.

Evidence for Exemption

Few guidelines exist regarding medical exemptions. Beyond the **CDC's recommended exemptions**—children younger than 2 years, people with difficulty breathing, and anyone unable to place or remove the mask—there are certain categories of disability that undoubtedly warrant medical exemptions. In this evidence-free zone, clinicians must make individual determinations as to whether a patient should be exempt from mask wearing. Some individuals, particularly children, with sensory processing disorders may be **unable to tolerate masks**. Facial deformities that are incompatible with masking are an additional category of exemption. Other situations, such as chronic pulmonary illnesses without an active exacerbation, are less clear. An individual with a chronic pulmonary illness is at higher risk for severe disease from severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), the virus that causes

COVID-19. Conversely, if that same individual were infected with SARS-CoV-2, he or she would likely also be at higher risk for spreading viral illness because many pulmonary illnesses are associated with a chronic cough. There is a risk-benefit ratio that must be carefully considered. Professional societies would provide a valuable service to clinicians if they could provide clear guidelines that include objective measures, such as a decrease in pulse oximetry results, to guide determinations. It is likely that chronic pulmonary disease in itself is a compelling reason for masking, rather than a category of exemption.

Legal Grounds for Exemption

A medically necessary exemption from masking is considered a disability modification under the Americans With Disabilities Act (ADA). Individuals with disabilities have clearly defined legal protections under both federal and state law. Title II of the ADA prohibits disability discrimination in "programs and activities of state and local government entities." Title III prohibits disability discrimination "in the full and equal enjoyment of...services" at places of "public accommodation." These are privately owned establishments and include restaurants, hotels, and grocery stores, which may require customers to mask. The "full and equal enjoyment" standard can be fulfilled via the use of "reasonable modifications in policies, practices, or procedures." A reasonable disability modification might be a masking exemption, but this is not the sole remedy. Amid a global pandemic, reasonable accommodations for masking intolerance can and should include avoidance measures, such as curbside services and delivery.[3]

Employers can legally require masking at their workplace, and workers may be asked to provide medical documentation for an exemption. This presents a unique challenge to clinicians who understand the necessity for individuals with disabilities to maintain job security. Yet few medical conditions are truly incompatible with all forms of mask wearing, and the same guiding principles of preserving public health and reducing individual risk remain relevant. As other workers cannot reasonably exempt

themselves from the presence of an unmasked coworker, workplace accommodations should be conceptualized in a broader framework than a simple mask exemption. These accommodations might include remote work, placement in non–public-facing positions, or, under certain conditions, leave. These may all be considered reasonable accommodations under title I of the ADA, which regulates employment.[4]

Adjudicating Accommodations

Clinicians are often reluctant to adjudicate questions of appropriate disability accommodations.[5] Unfortunately, with the politicization of mask wearing, and individuals' concerns regarding perceived infringement on individual liberties, methods to falsely claim a disability exemption have propagated across **the internet** and **social media**. Clinicians reasonably should question new and unsubstantiated claims of disability that emerge solely in the context of a contested masking requirement.

Nevertheless, there is a moral concern among the public that some people fake disabilities to gain advantages, such as getting extra time when taking tests, cutting lines in theme parks, or obtaining a favorable parking spot.[6] Clinicians should be aware of such bias when making their disability determinations to ensure they do not unnecessarily view a patient with suspicion while being cognizant of mask objectors who openly admit to manipulating disability law.

How Should Clinicians Proceed?

In evaluating an individual patient, clinicians should seek to balance appropriate accommodations with public health. It is crucial that individuals with disabilities be integrated in public spheres, a right that could be curtailed by withholding appropriate exemptions. But for many individuals seeking exemption, the risk of participating in public spheres during a pandemic may be high. For those with underlying pulmonary disease, if masking cannot be tolerated, sheltering in place is a reasonable and safe medical recommendation. Public health experts have cautioned

that masking cannot replace social distancing, and avoidance of indoor spaces should remain our medical recommendation, particularly for individuals who cannot tolerate a mask or do not desire to wear one for any reason.

Clinicians have no obligation to provide a mask exemption to patients if it is not medically warranted. They do, however, have a clear obligation to address individual patients' concerns, discuss appropriate alternatives, and offer clear recommendations for risk-reducing measures when patients are venturing into the public sphere.

Article Information

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References

1. Lyu W, Wehby GL. Community use of face masks And COVID-19: evidence from a natural experiment of state mandates in the US. *Health Aff (Millwood)*. Published online June 16, 2020. doi:10.1377/hlthaff.2020.00818
PubMed | Google Scholar

2. Chu DK, Akl EA, Duda S, Solo K, Yaacoub S, Schünemann HJ; COVID-19 Systematic Urgent Review Group Effort (SURGE) study authors. Physical distancing, face masks, and eye protection to prevent person-to-person transmission of SARS-CoV-2 and COVID-19: a systematic review and meta-analysis. *Lancet*. 2020;395(10242):1973-1987. doi:10.1016/S0140-6736(20)31142-9
PubMed | Google Scholar | Crossref

3. de Chavez-Lau J, Stein JA. No mask, no service? ADA considerations for business owners requiring face masks in retail stores. *National Law Review*. Accessed July 6,