



health

Department:
Health
REPUBLIC OF SOUTH AFRICA



Enquiries: Prof B Schoub
E-mail: barry.schoub@gmail.com

Date:	12 October 2021		
To:	Honourable Dr Joe Phaahla, Minister of Health	From:	Ministerial Advisory Committee (MAC) on COVID-19 Vaccines

ADVISORY
THE USE OF COVID-19 VACCINATION CERTIFICATES

Problem Statement

Background

- The National Department of Health (NDoH) will be issuing digital COVID-19 Vaccination Certificates, which may be used for international travel, and to enable access to some spaces within South Africa, e.g., recreational, workplace, and institutions of higher education. Concern has been raised that such a move may be discriminatory and infringe on fundamental civil freedoms and rights. Guidance was requested from VMAC on the rationale for requiring COVID-19 Vaccination Certificates in certain settings.

Cross-Referencing

- This advisory should be read together with the *Advisory on Mandatory Vaccinations in Certain Workplaces* and its *Background document: Mandatory COVID-19 Vaccinations in Certain Workplaces*, attached.

Points considered

- Internationally, as countries have introduced vaccination programmes, many have proposed, and several have implemented, digital and/or physical health certificates, also called ‘vaccine passports’ or ‘vaccine certificates’. In South Africa, the term used is Vaccination Certificate. These certificates are potential tools for recording and sharing the fully vaccinated status of individuals. With these certificates, people are able to demonstrate that they are significantly less likely to transmit the virus. It has been proposed that such certificates could play an important role in re-opening societies and positively impacting on livelihoods. Furthermore, they could allow greater ease of travel between countries. While such documents could assist in establishing relative normality, they raise several ethical concerns (Gostin & Cohen, 2021; Hall & Studdert, 2021; Brown & Kelly et al., 2021; SAMRC, 2021).
- Currently there are adequate supplies of COVID-19 vaccines in the country (or on order) to vaccinate all individuals who need to be vaccinated.
- Misinformation about the safety and efficacy of COVID-19 vaccines persists, despite attempts at corrective communication by government and several sectors of society.

- A Durban High Court Judge recently issued a directive that only people who had been vaccinated against COVID-19 or who could provide proof of a negative SARS-CoV-2 test result would be allowed to attend a court case that he was presiding over (Mercury, 2021).
- Vaccine certificates for international and domestic use have the potential to be an important public health measure in combatting the spread of SARS-CoV-2.
- The WHO has developed guidance documents on technical specifications of vaccine certification and its implementation (WHO, 2021).
- Scientific considerations
 - i. The currently authorized COVID-19 vaccines are designed primarily to prevent severe disease and death; the two vaccines currently in use in South Africa (Pfizer-BioNTech and Johnson & Johnson) provide high levels of protection against severe disease and death.
 - ii. The currently authorized COVID-19 vaccines also reduce SARS-CoV-2 transmission, through a combination of preventing SARS-CoV-2 infection and reducing infectiousness in individuals who are infected post-vaccination (Mostaghimi, *et al.*, 2021).
- Ethical Considerations
 - The VMAC Vaccine Strategy approved in January 2021 draws on African values and Ubuntu principles to guide ethical decision-making on COVID-19 vaccine determinations in the country (see <https://sacoronavirus.co.za/2021/01/03/covid-19-vaccine-strategy/>).
 - Ubuntu principles and African values of interrelatedness and interconnectedness underscore the importance of public health preventative measures to allow for survival of communities. Therefore, achieving public health will trump personal choice.
 - Ubuntu principles will require that implementation of the COVID-19 vaccine certificates needs to be socially and communally negotiated through discussions, public dialogues, and mutually respectful conversations with stakeholders and community members. This would assist with ensuring community participation and ownership, and transparency in the decision-making process.

Possible Benefits of Vaccine Certificates:

1. During lockdowns, it would be possible for fully vaccinated individuals to follow less stringent requirements than their non-vaccinated counterparts with regard to physical distancing and travel, including international travel (both business and leisure).
2. Broader society could benefit if fully vaccinated individuals are allowed to return to their work and care obligations, which include attending international business commitments, meetings, and conferences.
3. There could be a safe return to normal life and a gradual re-opening of the economy in key sectors like food, retail, entertainment, and travel, especially with regard to import and export.
4. With time, the use of the certificates could assist educational institutions to return to normal, in particular in the context of full on-site teaching and assessment, international collaborative research and student exchange.
5. Fully vaccinated individuals would be enabled to use the certificate as proof of a fully vaccinated status at ports of entry and departure during international travel.

Possible Challenges Associated with Vaccine Certificates:

1. There could be possible infringements of civil rights of those individuals who are not vaccinated based on medical, religious, personal, and other reasons.
 2. Unjust forms of discrimination and exclusions with not having a certificate resulting in societal divides could arise. This can be obviated by requiring proof of negative COVID-19 tests or recent COVID-19 infection.
 3. Uncertainties remain around the magnitude of the reduction in transmission with COVID-19 vaccines, how this might vary between different vaccines, and how it is affected by variants of concern. Because of this variability, the usefulness of the certificates could be affected, and some regions could limit their acceptance to only certain vaccines resulting in deepening inequities in particular between high- and low-income countries.
 4. There could be possible infringements of privacy, especially where the certificates are digital and the digital processes are not adequately secure. There is also risk to privacy when proof of vaccination is demanded in a public space.
 5. Technical challenges could emerge with the use of digital certificates, including authentication of vaccine status. In South Africa, the Electronic Vaccine Delivery System (EVDS) is being used to register vaccinees. Implementation of this system started with the commencement of the Sisonke Trial. Research participants who have been involved in successful vaccine studies prior to the EVDS being used are not registered on the system and may not be recognised as having received the vaccine. They would hence suffer social harms that are associated with exclusionary policies.
- General Legal Considerations from the Constitution:
 - The law supports that it would be ‘reasonable and justifiable’ to compel people to produce evidence of COVID-19 vaccination for travel and access to certain spaces locally. When backed by credible scientific evidence such infringement of civil liberties would serve a public health purpose.

References

Brown, R.C.H., Kelly, D., Wilkinson, D. and Savulescu, J. 2021. The Scientific and Ethical Feasibility of Immunity Passports. *Lancet Infect Dis* 21, pp. e58–63.

Lawrence, O., Gostin, I. Cohen, G. and Shaw, J. 2021. Digital Health Passes in the Age of COVID-19 Are “Vaccine Passports” Lawful and Ethical? *JAMA*, published online 7 April 2021. Available at: <https://jamanetwork.com/> [Accessed 15 April 2021].

Hall, M.A, and Studdert, D.M. 2021. “Vaccine Passport” Certification — Policy and Ethical Considerations. *The New England Journal of Medicine*. Available at: nejm.org [Accessed 15 April 2021].

Mostaghimi D, Valdez CN, Larson HT, Kalinich CC, Iwasaki A. Prevention of host-to-host transmission by SARS-CoV-2 vaccines. *Lancet Infect Dis* 2021 [https://doi.org/10.1016/S1473-3099\(21\)00472-2](https://doi.org/10.1016/S1473-3099(21)00472-2)

WHO. 2021. Digital documentation of COVID-19 certificates: vaccination status: technical specifications and implementation guidance, 27 August 2021 - https://www.who.int/publications-detail-redirect/WHO-2019-nCoV-Digital_certificates-vaccination-2021.1

WHO. 2021. Digital documentation of COVID-19 certificates: vaccination status: web annex A: DDCC:VS core data dictionary, 27 August 2021 - https://www.who.int/publications-detail-redirect/WHO-2019-nCoV-Digital_certificates-vaccination-data_dictionary-2021.1

WHO. 2021. Digital documentation of COVID-19 certificates: vaccination status: technical specifications and implementation guidance, web annex B: technical briefing, 27 August 2021

- https://www.who.int/publications-detail-redirect/WHO-2019-nCoV-Digital_certificates-vaccination-technical_briefing-2021.1

South African Medical Research Council. 2021. Advisory: COVID-19 Vaccine Health Certificates and Passports (Passes). Available at: <https://www.samrc.ac.za/sites/default/files/attachments/2021-08-04/Advisory%20vaccine%20passports.pdf> [Accessed 29 September 2021]

<https://www.iol.co.za/mercury/news/durban-judges-order-for-negative-covid-19-test-or-proof-of-vaccination-for-mike-mabuyakhulu-trial-raises-eyebrows-07200327-2c2a-44a4-bc5d-1422787a610d>

Recommendations

1. Because government has the responsibility to institute public health measures to decrease onward transmission of SARS-CoV2 and protect all people in the country from acquiring the virus and because there is no shortage of COVID-19 vaccines and vaccinations are being scaled up, the COVID-19 Vaccination Certificate is recommended as one of the measures to be used to ascertain who is or is not vaccinated.
2. Government has a responsibility to engage meaningfully with communities so as to develop individual and community agency to allow for them to make informed decisions on firstly being vaccinated and then the use of vaccine certificates. There is an obligation on the state to ensure adequate, focused, science-based communication that builds up vaccine confidence.
3. All individuals that have received SAHPRA-approved vaccines including research participants, should be issued with a vaccine certificate. The NDoH will need to collaborate with researchers to include these participants into the EVDS.
4. An upfront alternative approach which includes a medically justifiable reason for opting out of vaccination and hence not being able to produce a certificate could be instituted. Options such as proof of negative COVID-19 tests or recent COVID-19 infections (up to 6 months previously) should be recognised as alternatives to vaccination.
5. Government has the responsibility of ensuring the vaccine certification system is secure and not susceptible to fraud and corrupt practices and will need to closely monitor its implementation.
6. Guidance should be drawn from the WHO technical and implementation guidance documents when setting up the systems.
7. While rights to bodily integrity, equality, religion, and beliefs need to be respected when implementing the use of vaccination certificates for access to certain spaces, these rights can be limited in line with section 36 of the Constitution.

Thank you for consideration of this request.

Kind regards,



PROFESSOR BARRY SCHOUB
CHAIRPERSON: MINISTERIAL ADVISORY COMMITTEE ON COVID-19 VACCINES
DATE: 12/10/2021

CC:

» **Dr N Crisp (Acting Director-General: Health)**