



Department of Health

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Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

April 11, 2020

RE: DHDTC DAL 20-09
Amendment to 10 NYCRR Part 405

Dear Hospital Chief Executive Officer:

This guidance is intended for hospitals seeking emergency approval from the New York State (NYS) Department of Health (Department) for temporary approval to use qualified volunteers, or personnel affiliated with other general hospitals, to supplement your current hospital capacity, to account for the challenges presented by a surge of seriously ill COVID-19 positive patients. While clinician resources are required to care for critical patients, there is also a need for health care professionals to fill other roles in caring for less acute patients and to provide support services. Therefore, the Department will exercise its authority under [Executive Order 202.10](#) to issue emergency approvals for these requests.

[Executive Order 202.10](#) modifies subdivision (b) of section 405.3 of Title 10 of the NY Codes, Rules and Regulations (NYCRR), to the extent necessary to allow general hospitals to use qualified volunteers, or personnel affiliated with different general hospitals, subject to the terms and conditions established by the Commissioner of Health.

In order to immediately increase the number of providers available to treat patients affected with COVID-19, as well as all other patients in New York State hospitals, the following provisions of 10 NYCRR are temporarily modified, effective immediately:

- 10 NYCRR section 405.3(b)(10), requiring a physical examination and recorded medical history for all personnel, is modified to allow volunteers and personnel affiliated with other hospitals, in lieu of a physical examination, to submit a written health status self-assessment to the hospitals where they volunteer. This self-assessment must be retained in the hospital's personnel files. This assessment must include an attestation that the applicant has no health impairment that would pose a potential risk to patients, or which might interfere with the performance of his/her duties, including the habituation or addiction to depressants, stimulants, narcotics, alcohol or other drugs or substances which may alter the individual's behavior.

The following requirements are also temporarily modified, effective immediately:

- The requirement for a “certificate of immunization against rubella” is modified to require the following evidence of immunity: a document prepared by a physician, physician's assistant, specialist assistant, nurse practitioner, licensed midwife or a laboratory, demonstrating serologic evidence of rubella antibodies. Testing for rubella antibodies will be performed by the hospital, at no cost to the applicant.
- The requirement for a “certificate of immunization against measles” is modified to require, for all personnel born on or after January 1, 1957, the following evidence of immunity: a document prepared by a physician, physician's assistant, specialist assistant, nurse practitioner, licensed midwife or a laboratory, demonstrating serologic evidence of measles antibodies. Testing for measles antibodies will be performed by the hospital, at no cost to the applicant.
- The requirement for all personnel with clinical or patient care contact, prior to employment or affiliation, to undergo a tuberculin skin test or Food and Drug Administration (FDA) approved blood assay for the detection of latent tuberculosis infection, is modified to require a health status self-assessment of all applicants with past evidence of tuberculosis infection or positive tuberculin skin test, to follow with an FDA approved blood assay for the detection of latent TB infection.

Please note that the following requirement is not waived:

- The requirement for current vaccination against influenza is not waived, due to similarities in the symptoms between COVID-19 and influenza.

Thank you for your attention to these important Federal and State requirements. Questions can be directed to (518) 402-1004 or sent by email to hospinfo@health.ny.gov.

Sincerely,

Stephanie Shulman, DrPH, MS
Deputy Director, Division of Hospitals and
Diagnostic & Treatment Centers