



Department of Health

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Governor

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Commissioner

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Acting Executive Deputy Commissioner

January 21, 2022

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Dear Chief Executive Officers, Nursing Home Operators and Administrators, Adult Care Facility Operators and Administrators and Home Care and Hospice Administrators:

The purpose of this letter is to remind covered entities that the requirement that personnel are fully vaccinated against COVID-19 remains in effect, as well as to advise covered entities of a recent amendment. On January 21, 2022, an amendment adding a booster requirement to 10 NYCRR Section 2.61 became effective. The amended regulation states, "Covered entities shall continuously require personnel to be fully vaccinated against COVID-19, and to have received any booster or supplemental dose as recommended by the CDC, absent receipt of a medical exemption."

Covered entities must ensure personnel who are currently eligible for a COVID-19 booster dose have documentation of compliance with the emergency regulation by February 21, and that personnel not currently eligible for boosters receive their boosters within 30 days of becoming eligible.

Please be reminded that [10 NYCRR Section 2.61\(a\)\(2\)](#) defines "personnel" as employees and non-employee members of the medical and nursing staff, contract staff, students, and volunteers "who engage in activities such that if they were infected with COVID-19, they could potentially expose other covered personnel, patients or residents to the disease."

As previously noted, the regulation applies to any healthcare facility licensed under Article 28 of the Public Health Law (including general hospitals, nursing homes, diagnostic and treatment centers, and adult day healthcare programs); agencies and programs licensed under Article 36 of the Public Health Law (including certified home health agencies, licensed home care services agencies, long term home health care programs, AIDS Home Care Programs, and limited licensed home care services agencies); any hospice licensed under Article 40 of the Public Health Law; and any assisted living or adult care facility regulated by the Department under the Social Services Law (including adult homes, assisted living programs, enriched housing programs, and residences for adults).

Lastly, facilities must have a process in place to consider reasonable accommodation requests from covered personnel based on sincerely held religious beliefs consistent with applicable Federal and State laws, including Equal Employment Opportunity (EEO) laws such as Title VII of the Civil Rights Act and the NYS Human Rights Law, and their applicable guidance.

Documentation must occur continuously, and as needed, following the dates for initial compliance, and including documentation of any reasonable accommodation.

Questions or concerns related to this DAL can be addressed to hospinfo@health.ny.gov, covidnursinghomeinfo@health.ny.gov, covidadultcareinfo@health.ny.gov, or covidhomecareinfo@health.ny.gov based on the specific entity covered.

In addition, an FAQ document on the vaccination requirements will be posted at <https://coronavirus.health.ny.gov/frequently-asked-questions-regarding-august-26-2021-prevention-covid-19-transmission-covered>.

Sincerely,

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