



Department of Health

ANDREW M. CUOMO
Governor

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

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

April 19, 2021

DAL: DAL #21-04

Subject: COVID-19 Vaccination Regulations

Dear Adult Care Facility Operator and Administrator:

The purpose of this letter is to communicate to adult care facility providers their obligation and responsibility to arrange for ongoing vaccination of residents and staff under new regulations promulgated by the Department of Health (Department), effective April 15, 2021. The new Subpart 66-4 is titled "COVID-19 Nursing Home and Adult Care Facility Vaccination," and is available on the Department's website at <https://regs.health.ny.gov/regulations/emergency>.

The operator and administrator of every adult care facility (ACF) regulated pursuant to 18 NYCRR Parts 487, 488 and 490 and 10 NYCRR Part 1001 must make diligent efforts to arrange for all new personnel, including employees and contract staff, and every new resident and resident readmitted to the ACF to receive the first or any required next dose of the COVID-19 vaccine **within seven days of hiring, admission or readmission**, as applicable. Likewise, the regulations require all ACFs to make diligent efforts to arrange for all consenting, unvaccinated existing personnel and residents to receive their first or any required next dose of the COVID-19 vaccine **within seven days of the effective date of the regulation** (i.e., by April 22, 2021).

The requirement to arrange for COVID-19 vaccination of new and existing personnel and residents includes, but is not limited to:

- **For New/Readmitted ACF Residents:**

- During the pre-admission screening process and in no event after the first day of admission, the ACF must screen the prospective or newly admitted resident for COVID-19 vaccine eligibility.
- Determine whether any first doses of the vaccine were previously administered and the location of such administration, if applicable, and whether the resident is interested in obtaining the COVID-19 vaccine.
- Document all such information with the resident's pre-admission screening information and, if admitted, retained in the resident's case management records.
- Within **seven days of admission or readmission**, the facility shall make and document its diligent efforts to schedule all consenting and eligible new or readmitted residents for the COVID-19 vaccination. Documentation in the resident's case management notes must include the methods used by the ACF to schedule the vaccine appointment and shall be made available upon the Department's request.

- **For New ACF Personnel:**

- As part of the pre-employment screening process, ACFs must solicit information from the prospective employee regarding their vaccination status, including:
 - Whether any first doses of the vaccine were previously administered and the location of such administration, if applicable.

- Whether the prospective employee is interested in obtaining the COVID-19 vaccine.
 - Document such information with the individual's pre-employment screening information and if hired, retain such documentation in the employee's personnel file.
 - Within **seven days of the hire date of new personnel**, the ACF shall make and document its diligent efforts to schedule all consenting and eligible new personnel for the COVID-19 vaccination.
 - All attempts to schedule and methods used to schedule the vaccine appointment must be maintained in the individual's personnel file.
- Please be reminded that nothing in this communication or the related regulations shall be construed to require an ACF to make a hiring determination based upon an individual's COVID-19 vaccination history or interest in receiving COVID-19 vaccination.
- **For Existing ACF Residents and Personnel:**
 - Within **seven days of the effective date of the regulation**, the ACF must:
 - Make diligent efforts to arrange for all consenting, unvaccinated existing residents and personnel to register for a vaccine appointment, and
 - Document attempts to schedule and methods used to schedule the vaccine in the resident's case management notes and the personnel file, as applicable.

For all ACF personnel and residents who decline to be vaccinated for COVID-19, the ACF must obtain a written affirmation for signature, which indicates that the residents and personnel were offered and declined the opportunity for the facility to arrange for a COVID-19 vaccination. The affirmation must state that the signatory is aware that, if they later decide to be vaccinated for COVID-19, it is their (resident/personnel) responsibility to request the facility arrange for their vaccination. Lastly, the ACF must maintain signed affirmations on file at the facility and make such forms available at the request of the Department.

ACFs must certify to the Department, on a weekly basis, **beginning April 29, 2021**, that the ACF has proactively arranged for all new unvaccinated residents and personnel an opportunity to obtain the COVID-19 vaccine within seven days of being hired, admitted, or readmitted. The additional certification will be added to the weekly staff testing survey.

Finally, ACFs must immediately develop and implement necessary formal processes and procedures to ensure compliance with these requirements. If you have any questions, please write to COVIDVaccineLTC@health.ny.gov. Thank you for your attention to this matter.

Sincerely,



Heidi L. Hayes, Acting Director
Division of Adult Care Facility
and Assisted Living Surveillance

cc: A. Herbst
R. Becker
J. Treacy
M. Hennessey
V. Deetz



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April 19, 2021

DAL # NH 21-08

Dear Nursing Home Operator and Administrator:

The purpose of this letter is to communicate to nursing home providers their obligation and responsibility to provide access to ongoing vaccination of residents and staff under new regulations promulgated by the Department of Health (Department), effective April 15, 2021. Please refer to the new Subpart 66-4, titled **COVID-19 Nursing Home and Adult Care Facility Vaccination**, available on the Department's website at <https://regs.health.ny.gov/regulations/emergency>.

Under these new regulations, the operator and administrator of every nursing home regulated pursuant to 10 NYCRR Part 415 must ensure that all new personnel, including employees and contract staff, **and** every new resident and resident readmitted to the facility has an opportunity to receive the first or any required next dose of the COVID-19 vaccine **within fourteen days of having been hired by or admitted or readmitted to such facility**, as applicable. Likewise, the regulations require all nursing homes to offer all consenting, unvaccinated existing personnel and residents an opportunity to receive the first or any required next dose of the COVID-19 vaccine **within fourteen days of the effective date of the regulation** (i.e., by April 29, 2021).

The regulations require nursing homes to immediately implement measures including, but not limited to:

- Posting conspicuous signage throughout the facility, including at points of entry and exit and each residential hallway, reminding personnel and residents that the facility offers COVID-19 vaccination.
- Providing all personnel and residents who decline to be vaccinated a written affirmation for their signature, which indicates that they were offered the opportunity for a COVID-19 vaccination but declined. The affirmation must state that the signatory is aware that, if they later decide to be vaccinated for COVID-19, it is their responsibility to request vaccination from the facility.
- Maintaining signed affirmations on file at the facility and make such forms available at the request of the Department; and

- Certifying to the Department, on a weekly basis, beginning April 29, 2021, that the facility has proactively offered all new unvaccinated residents and personnel an opportunity to obtain the COVID-19 vaccine within fourteen days of being hired, admitted, or readmitted. The additional certification will be added to the weekly staff testing survey.

Please carefully review the newly adopted regulations and ensure compliance with the new requirements. Questions regarding this correspondence should be sent to COVIDVaccineLTC@health.ny.gov.

Sincerely,

A handwritten signature in cursive script that reads "Sheila McGarvey". The signature is written in black ink on a white background.

Sheila McGarvey, Director,
Division of Nursing Homes and
ICF/IID Surveillance