



Department of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

February 18, 2022

DHDTC 22-03
DAL NH 22-06
DHCBS 22-04
DACF 22-23

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 advise covered entities that the New York State Department of Health (the “Department”) will not enforce the COVID-19 vaccine booster requirement that is scheduled to go into effect on February 21. The Department will reassess in three months whether additional steps need to be taken to increase booster rates among the healthcare workforce. Covered entities should offer COVID-19 booster vaccinations to all personnel willing to receive it and to take steps to encourage personnel to stay up to date on their COVID-19 vaccinations.

Please be reminded that the requirement that personnel in covered entities be fully vaccinated against COVID-19 remains in effect pursuant to [10 NYCRR 2.61](#). This regulation applies to healthcare facilities 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); hospices licensed under Article 40 of the Public Health Law; and assisted living or adult care facilities regulated by the Department under the Social Services Law (including adult homes, assisted living programs, enriched housing programs, and residences for adults).

“Personnel” is defined in [10 NYCRR Section 2.61\(a\)\(2\)](#) 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.”

Covered entities must continue to 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, including documentation of any reasonable accommodation.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer L. Treacy". The signature is written in a cursive style with a large, sweeping flourish at the end.

Jennifer L. Treacy, R.Ph.
Deputy Director
Office of Primary Care and
Health Systems Management