

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Care Safety and Quality
67 Forest Street, Marlborough, MA 01752

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

MARGRET R. COOKE
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

Memorandum

TO: Long-Term Care Facilities
FROM: Elizabeth Kelley, MBA, MPH, Director, Bureau of Health Care Safety and Quality
SUBJECT: Long-term Care Facility COVID-19 Personnel Vaccination Requirement
DATE: March 25, 2022

The Massachusetts Department of Public Health (DPH) continues to work with state, federal and local partners on the Coronavirus Disease 2019 (COVID-19) pandemic, and we continue to appreciate the essential role you have in responding to this evolving situation. This guidance replaces guidance issued on January 14, 2022; this update clarifies how fines for booster doses will be calculated for nursing homes in response to changes made to the federal reporting platform, National Healthcare Safety Network (NHSN) and removes DPH issuing an admissions freeze as a possible enforcement action.

COVID-19 Primary Series Vaccination Requirement:

Pursuant to the long-term care regulations ([105 CMR 150.002\(D\)\(11\)](#)), nursing homes and rest homes must ensure that all personnel have completed the full required regimen of vaccine doses against COVID-19 unless such administration is medically contraindicated, which means administration of COVID-19 vaccine is likely to be detrimental to the individual's health, provided that the individual provides supporting documentation, or the individual objects to vaccination on the basis of a sincerely held religious belief. If the individual seeks an exemption for either medical or religious reasons, the individual must be able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the nursing home or rest home. Personnel may not otherwise decline the vaccine. Nursing homes and rest homes shall ensure that all new personnel are fully vaccinated or qualify for an exemption from the requirement as described herein prior to being hired or otherwise affiliated with the facility.

Additional COVID-19 Vaccine Dose/Booster:

Pursuant to an Order of the Commissioner of Public Health, issued on January 6, 2022, nursing homes and rest homes must ensure that all eligible personnel have received a COVID-19 additional dose or booster vaccination by February 28, 2022. Eligible personnel are those who completed their primary COVID-19 vaccination series at least 5 months prior if they received

Pfizer or Moderna or at least 2 months prior for J&J/Janssen, or such other time period as recommended by the CDC.

Any individual who has been granted a reasonable accommodation by their employer based on medical contraindication or a sincerely held religious belief is exempt from the requirement to receive a booster. Nursing homes and rest homes must ensure that personnel who become eligible to receive a COVID-19 additional dose or booster vaccination on or after February 28, 2022 receive the additional dose or booster vaccination as soon as possible after becoming eligible and no later than three weeks after they become eligible. All new personnel must receive the additional dose or booster vaccination as soon as possible after becoming eligible and no later than three weeks after they are hired or otherwise affiliated with the facility.

Facility Documentation:

Nursing homes and rest homes shall require and maintain for each individual proof of current vaccination against COVID-19 or the individual's declination statement and must have a central system to track the vaccination status of all personnel. The proof of current vaccination and central system must be made available to DPH upon request. Individual proof of current vaccination may include but is not limited to:

- Copy of CDC Vaccination Card
- Copy of MA Immunization Information System (MIIS) Vaccination Record
- Copy of vaccination from their electronic health record
- COVID19 [SmartHealthcard](#) from the Commonwealth's massvaxrecords public portal

Declination statements from personnel must include but are not limited to: each individual who declines vaccination due to medical contraindication or a sincerely held religious belief signing a statement certifying he or she received information about the risks and benefits of COVID-19 vaccine. Appropriate documentation of a medical exemption must be issued by a licensed independent practitioner who has a practitioner/patient relationship with the individual and the documentation must support the finding that the COVID-19 vaccine is medically contraindicated, which means that the vaccine would likely be detrimental to the person's health.

For every individual who has submitted a request for exemption, the nursing home or rest home must document that it has engaged in an appropriate individualized determination that the exemption is valid and that the nursing home or rest home has determined that the individual is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the employer. DPH recommends that facilities work with their legal counsel to ensure they conduct an appropriate process. As part of this individualized determination nursing homes and rest homes should incorporate clinical considerations beyond standard infection control requirements (e.g. testing frequency). For example:

- requiring additional testing that goes above currently required DPH surveillance or outbreak testing guidance; and
- avoiding direct care for residents who are confirmed or suspected to be infected with COVID-19, are immunocompromised or are not fully vaccinated; and
- refraining from working after a close contact or exposure.

DPH supports staff using personal protective equipment as outlined in the Comprehensive PPE Guidance and does not endorse clinical considerations that deviate from this guidance. For example, while N95 respirators should be worn when caring for a patient with confirmed or suspected COVID-19, the available evidence does not support using N95 respirators as daily PPE as a substitute for direct care staff being vaccinated against COVID-19.

Nursing Home Reporting:

Nursing homes must use the Centers for Disease Control and Prevention (CDC) NHSN to report cumulative weekly COVID-19 vaccination for residents and personnel through the Long-Term Care Facility Component. DPH will use data submitted through the weekly COVID-19 vaccination modules to provide consistent reporting and comparable data across facilities. NHSN data can be used to monitor COVID-19 vaccination trends over time, identify facilities with lower resident and/or personnel vaccination rates, and inform planning and implementation decisions regarding vaccine supply and distribution.

Training, data collection forms, and instructions can be found on the following NHSN website under ‘HCP & Resident COVID-19 Vaccination’: <https://www.cdc.gov/nhsn/ltc/weekly-covid-vac/index.html>

Facilities can access the COVID-19 vaccination modules by logging into NHSN (via Secure Access Management Service) as they would for any of the other NHSN reporting (cdc.gov). On the NHSN Home page, select the ‘COVID-19’ option on the left-hand navigation bar. Personnel and resident data should be entered by selecting ‘COVID-19 Vaccination-HCW’ and ‘COVID-19 Vaccination-Residents’ respectively. This reporting is separate from the ‘Daily Entry’ where facilities enter weekly case counts and supply data. For reference, please see the image below:



Nursing homes must complete the two vaccination modules each week, no later than Sunday at 11:59 PM, in alignment with the CMS weekly deadline. DPH will use submitted information to identify if all personnel are fully vaccinated, unless otherwise exempt, at each facility to assess compliance with the amendments to 105 CMR 150.000.

To determine compliance with the Additional COVID-19 Vaccine Dose/Booster, DPH will compare total staff reported as fully vaccinated to the total staff reported as receiving an additional dose/booster. In NHSN, total staff reported as fully vaccinated is the sum of questions 2.2 (Dose 1 and dose 2 of Pfizer-BioNTech COVID-19 vaccine), 2.4 (Dose 1 and dose 2 of Moderna COVID-19 vaccine), 2.5 (Dose of Janssen COVID-19 vaccine), and 2.99 (Complete COVID-19 vaccination series: unspecified manufacturer) compared to the Total staff that have received an additional dose/booster are reported in questions 4.1 (Additional dose or booster of Pfizer-BioNTech COVID-19 vaccine), 4.2 (Additional dose or booster of Moderna COVID-19 vaccine), 4.3 (Additional dose or booster of Janssen COVID-19 vaccine), and 4.4 (Additional dose or booster of unspecified manufacturer).

If the values of both responses are not the same and there are more staff reported as fully vaccinated then DPH will contact facilities by email at the start of each week to enquire as to the number of staff identified above as not having received an additional dose/booster, and how many (if any) are ineligible. Facilities must respond to DPH by the deadline specified in the communication. DPH will adjust for staff who are reported by facilities to be ineligible so that the final calculation for additional dose/booster enforcement will be: staff eligible for additional dose/booster that have not received the booster by the deadline = (total staff reported as fully vaccinated) – (total staff reported as receiving an additional dose/booster) – **(total staff reported to DPH as being ineligible for additional dose/booster)**.

Rest Home Reporting:

Rest homes must use DPH's Health Care Facility Reporting System (HCFRS) to report cumulative monthly COVID-19 vaccination for residents and personnel through the COVID-19 Vaccination Module. DPH will use data submitted through the monthly COVID-19 vaccination modules for enforcement purposes and to provide consistent reporting and comparable data across facilities. HCFRS data can be used to monitor COVID-19 vaccination trends over time, identify facilities with lower resident and/or personnel vaccination rates, and inform planning and implementation decisions regarding vaccine supply and distribution

Facilities can access the HCFRS COVID-19 vaccination modules by logging into the Virtual Gateway as they would for any of the other required reporting or find more information at the following link: <https://www.mass.gov/guides/how-to-set-up-initial-access-to-the-hcfrs>

Rest homes must complete the vaccination module by the last day of each month, no later than 11:59 PM. Details about the specific information required to be reported and format may be found in Appendix A. DPH will use submitted information to identify if all personnel are fully vaccinated, unless otherwise exempt, at each facility to assess compliance with the regulation and Order.

Enforcement Action:

This guidance serves as notice that if a facility fails to comply with the regulation, including the reporting requirements set forth in this or subsequent guidance, it will be subject to the following penalties pursuant to G.L. c. 111, § 73 and 105 CMR 153.024(C)¹:

- DPH will impose a penalty of \$50 per day for a failure to report by October 31, 2021 for rest homes on the last day of each month thereafter and for nursing homes on a weekly basis thereafter;
- After February, 28, 2022 and each month thereafter, DPH will impose a penalty of \$50 per day for each member of the facility's eligible personnel who is not fully vaccinated against COVID-19 and for each eligible personnel who has not received an additional dose or booster for the entire duration of the month for rest homes or for the duration of the week for nursing homes being reported.

The Bureau may revise, change, update, or rescind this memorandum at any time.

DPH strongly encourages all rest homes in Massachusetts to monitor the Centers for Disease Control and Prevention (CDC) website for up-to-date information and resources:

- CDC website: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/facility-planning-operations.html>
 - For reference, since first responders are part of the COVID-19 response, the CDC healthcare personnel exposure guidance may be found here: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html>

Additionally, please visit DPH's website that provides up-to-date information on COVID-19 in Massachusetts: <https://www.mass.gov/2019coronavirus>.

¹ If a nursing home or rest home has reason to dispute the penalty, they may request Administrative Review.