

September 20, 2013

Dear Health Professions School Administrator:

The purpose of this letter is to make you aware of new public health regulations that will affect your students beginning this year. The New York State Public Health and Health Planning Council recently adopted the "Prevention of Influenza Transmission by Healthcare and Residential Facility and Agency Personnel" regulation, which became effective upon publication in the State Register on July 31, 2013. The regulation is in effect for the coming 2013-2014 influenza season beginning this fall. These regulatory provisions are located in a new Section 2.59 of the State Sanitary Code within Title 10 of the New York Codes Rules and Regulations (10 NYCRR).

The regulations apply to all personnel in healthcare and residential facilities and agencies, including students, whose activities are such that they could expose patients or residents to influenza. These terms are defined as follows:

- "Personnel" means all persons employed or affiliated with a healthcare or residential facility or agency, whether paid or unpaid, including, but not limited to employees, members of the medical or nursing staff, contract staff, students and volunteers, who engage in activities such that if they were infected with influenza, they could potentially expose patients or residents to the disease.
- "Healthcare and residential facilities and agencies" means:
 - Any facility or institution included in the definition of a "hospital" as defined in Section 2801 of the Public Health Law, including, but not limited to general hospitals, nursing homes, and diagnostic and treatment centers;
 - Any agency established pursuant to Article 36 of the Public Health Law, including but not limited to certified home health agencies, long term home health care programs, acquired immune deficiency syndrome (AIDS) home care programs, licensed home care services agencies, and limited licensed home care service agencies; and
 - Hospices as defined in Section 4002 of the Public Health Law.

The regulations require that facilities and agencies that are subject to this regulation document the influenza vaccination status of all personnel to which the regulations apply each year and require unvaccinated personnel to wear a surgical mask at all times while in areas where patients or residents may be present during periods that the Commissioner of Health determines that influenza is prevalent. Key requirements are as follows:

- All healthcare and residential facilities and agencies shall document the influenza vaccination status of all personnel for the current influenza season in each individual's personnel record or other appropriate record. **Documentation of vaccination must include the name and address of the individual who ordered or administered the vaccine and the date of vaccination.**
- During the influenza season when the Commissioner of Health deems influenza prevalent, all healthcare and residential facilities and agencies shall ensure that all personnel not vaccinated against influenza for the current influenza season wear a surgical or procedure mask while in areas where patients or residents may be present. Healthcare and residential facilities and agencies shall supply such masks to personnel, free of charge.

Facilities and agencies must develop policies and procedures to implement these requirements and must provide a report to the New York State Department of Health on the influenza vaccination status of personnel upon request.

How will this regulation affect New York State professional schools?

In addition to the health status and immunization documentation already required of students and other school personnel entering Article 28, 36 and 40 healthcare facilities in New York State or working with covered agencies, documentation of influenza vaccination (as outlined above) will be required. If you have not done so already, please work with those covered healthcare facilities where your students may work to assure that the requirements of this new regulation are complied with. There are several ways that this might happen. For example, a school might provide a hospital with a list of students and other personnel that includes, for each person, immunization status, date of immunization, and name and address of the person ordering or administering the vaccine. Schools should ensure that any vaccination information they provide to healthcare facilities and agencies is based on documentation that meets the requirements of the regulation; self-attestation of vaccination is not acceptable. Students and other personnel without proper documentation of influenza vaccination for the current influenza season, regardless of the reason they are not vaccinated, will be required to wear a surgical or procedure mask in accordance with the regulation and facility policies.

The final express terms of the 10 NYCRR Section 2.59, the Assessment of Public Comment, and more information, including a Frequently Asked Questions (FAQ) document are available at www.health.ny.gov/FluMaskReg.

Should you have further questions, you may contact the Department at: FluMaskReg@health.state.ny.gov.

Sincerely,

Nirav R. Shah, M.D., M.P.H.
Commissioner of Health