Regulation for Prevention of Influenza Transmission by Healthcare and Residential Facility and Agency Personnel

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and

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Outline

- Regulation overview
  - Legal citations and effective date
  - Applicability and definitions
  - Requirements
- Reporting
- Frequently Asked Questions
- Contact Information
Legal Citations & Effective Date

- Statutory Authority: Public Health Law (PHL) Sections 225, 2800, 2803, 3612, and 4010
- Regulatory provisions located in a new Section 2.59 of the State Sanitary Code
- Additional provisions reference Section 2.59
  - 10 NYCRR Sections 405.3, 415.19, 751.6, 763.13, 766.11, and 793.5
- Became effective July 31, 2013
Applicability – Which Entities

- Hospitals, general hospitals, nursing homes, diagnostic and treatment centers (all “Article 28 facilities”)
- Certified home health agencies, long term home health care programs, AIDS home care programs, licensed home care service agencies, limited license home care service agencies (all “Article 36 agencies”)
- Hospices (as defined in Article 40 of the PHL)
Applicability – Who

- All personnel in healthcare and residential facilities and agencies who engage in activities such that if they were infected with influenza, they could potentially expose patients or residents to the disease
All persons employed or affiliated with a covered healthcare or residential facility or agency, paid or unpaid. Includes but is not limited to:

- Employees
- Members of the medical and nursing staff
- Contract staff
- Students
- Volunteers
Applicability – Who

- Does not apply to visitors to facilities or family members of patients/residents
- Visitors typically only come in contact with specific patients/residents, whereas staff come in contact with many patients/residents
- Facilities are encouraged to establish policies for visitor restrictions to limit influenza transmission
Applicability – Where and When

- Areas where patients or residents may be present
- Only during the period of time in which influenza is prevalent as determined by the Commissioner.
Healthcare and residential facilities and agencies must:

- Determine and document which persons qualify as “personnel” under the regulation.
- Document the influenza vaccination status of all personnel for the current influenza season.
- Upon Department request, report the number and percentage of personnel that have been vaccinated against influenza for the current season.
Healthcare and residential facilities and agencies must:

- Ensure 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.
- Identify those areas where patients or residents may be present and, accordingly, unvaccinated persons must wear a mask.
Reporting

- All covered entities are required to document the number and percentage of personnel vaccinated against influenza for the current season and report these data to the Department upon request.

- The Healthcare Personnel Influenza Vaccination Report will be the mechanism for reporting.
Reporting

- Mandated electronic report
  - Must be completed on the Health Electronic Response Data System (HERDS) on the Health Commerce System (HCS) at https://commerce.health.state.ny.us/
- Please ensure that a member of your staff has an HCS account with a “HERDS Data Reporter” role prior to November 1, 2013
At least 2 reports this season

The first report opens November 1, 2013 and is due by November 15, 2013

There will be a final report at the end of the flu season

Further instructions, including a sample report and FAQs, was distributed to covered entities and associations in August 2013 and is available online at www.health.ny.gov/FluMaskReg
Healthcare Personnel Influenza Vaccination Report

1. Name of the person primarily responsible for completion of this report
2. Title
3. Phone number (in xxx-xxx-xxxx format)
4. Email address

<table>
<thead>
<tr>
<th></th>
<th>Employees</th>
<th>Licensed independent practitioners</th>
<th>Students, trainees, and volunteers</th>
<th>Contract Personnel</th>
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<tbody>
<tr>
<td>5. Number of HCP who</td>
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<tr>
<td>worked at this</td>
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<td>agency during the</td>
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<td>6. Number of HCP who</td>
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<td>received an influenza</td>
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<td>7. Number of HCP who</td>
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<td>of influenza vaccination</td>
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<td>facility/agency after</td>
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<td>July 1, 2013</td>
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<td>8. Number of HCP who</td>
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<td>declined to receive</td>
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<td>the influenza vaccine</td>
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<td>9. Number of HCP with</td>
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<td>unknown influenza</td>
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<td>vaccination status</td>
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FAQs: Home Care

- Home care agencies are covered under this regulation
- Home care personnel would be covered when they provide services at an assisted living facility, just as they are when they provide services at a private home
- Home care agency is responsible for verifying immunization status, reporting, and enforcement
FAQs: What do we do about staff who refuse the vaccine?

- Staff are free to refuse the vaccine for any reason or for no reason at all
- Unvaccinated staff will need to wear a mask, regardless of the reason they are unvaccinated
- Facilities/agencies may institute policies surrounding declination
  - Declination forms
    - Sample Declination Statement from NYSDOH available at [www.health.ny.gov/FluMaskReg](http://www.health.ny.gov/FluMaskReg)
  - Education
- Education is important!
FAQs: Enforcement

- It is the responsibility of each agency to enforce its policies related to this regulation.
- Enforcement by agencies is expected to occur much like enforcement of other infection control policies.
- Enforcement by DOH will also be similar to that for other policies, ex. citations, need for a plan of corrections.
FAQs: Masks

- Surgical or procedure masks
  - May also be labeled as laser, isolation, dental, or medical procedure masks
  - May be secured by ties or ear loops

- Face shields and N95 respirators are not required to meet the requirements of this regulation
  - Standard and Transmission-Based Precautions apply as usual
FAQs: Masks

- Masks should be changed when:
  - Leaving the room or completing care of a patient/resident on isolation precautions
  - Whenever it is soiled or might have become soiled
  - Between home visits
  - Within a client's home after eating/drinking
  - After removing an old mask
    - Masks should not be removed and saved for later use
  - Per agency protocol
FAQs: Masks

- Hand hygiene should always be performed after removing contaminated masks
- Masks should be disposed of according to agency policy for similar personal protective equipment
FAQs: Masks

- Masks do not need to be worn when accompanying home care clients in the community (e.g. shopping, subway, etc.)
- Clients should not be exposed to influenza in their homes by the personnel they rely upon for care.
- When clients choose to leave their home, the risk of exposure by the healthcare provider is essentially subsumed by the risk of community exposures.
FAQs: Exposure

- Influenza is transmitted primarily by large-particle respiratory droplets that do not remain suspended in the air.
  - Sharing a 6-foot space with a patient (person-to-person contact) or a surface that comes in contact with a patient (equipment-to-patient contact).
- Facilities/agencies are responsible for developing medically appropriate protocols based upon the potential for personnel to expose patients or residents to influenza.
FAQs: Exposure

- Areas where client contact is expected and masks must be worn
  - Rooms where clients are typically present

- Areas where client contact is not expected and masks need not be worn
  - Rooms where clients are not typically present
    - For non-ambulatory patients, rooms other than where the patient’s bed is located
    - Private quarters for live-in personnel
FAQs: What if masks frighten home care clients?

- Ensure that all staff members who are willing and able are vaccinated
- Consider what you do when masks must be worn for other reasons
- Work with staff at your agency who address the psychosocial concerns of clients
  - Educate to the extent possible, reassure
FAQs: Influenza Season

- Influenza season begins, peaks, and ends at different times in different years
- Commissioner will likely designate influenza “prevalent” based on Department influenza surveillance data
<table>
<thead>
<tr>
<th>Influenza Season</th>
<th>Dates “Widespread”</th>
<th># Weeks “Widespread”</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-2008</td>
<td>January 12 – April 19</td>
<td>15</td>
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<tr>
<td>(H1N1 pandemic)</td>
<td>January 31 – April 11</td>
<td>17</td>
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<tr>
<td>2009-2010</td>
<td>October 3 – December 12</td>
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<tr>
<td>2010-2011</td>
<td>December 25 – April 9</td>
<td>16</td>
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<td>2011-2012</td>
<td>March 10 – May 19</td>
<td>11</td>
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<tr>
<td>2012-2013</td>
<td>November 24 – April 20</td>
<td>22</td>
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</tbody>
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The Commissioner's decision that influenza is prevalent may be announced by some or all of the methods below:
- HCS Informational Message
- Dear Administrator Letter
- Message on the public website
- Press release
FAQs: Vaccination Documentation

- Documentation must have been generated by the individual administering the vaccine and must include:
  - Date of vaccination
  - Name of individual who ordered or administered the vaccine
  - Business address of individual who ordered or administered the vaccine*

- Self-attestation of vaccination is not acceptable

* For initial implementation of this regulation, if the documentation does not include the business address, the immunized individual may provide the business address.
FAQs: DOH Surveyors

- Not covered under regulation
- NYSDOH policy with similar requirements is under development
- Agencies are not responsible for verifying vaccination status of DOH staff
Contact Information

- NYSDOH influenza regulation questions
  Email: FluMaskReg@health.ny.gov
  Web: http://www.health.ny.gov/FluMaskReg

- Health Commerce System account questions
  Email: hinhpn@health.state.ny.us
  Phone: 866-529-1890 Option 1
  (8am-4:45pm EST, excluding weekends/holidays)