



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

August 25, 2021

DHDTC DAL 21-09

Dear Chief Executive Officer:

Personal Protective Equipment (PPE) acts a defense for staff, patients, and visitors during times of emergency. The Department wants to ensure that hospitals are prepared for scenarios where supply chains may be constrained. As a result, the Department established regulations, effective July 30, 2021, that will prepare hospitals and protect patients, staff, and visitors. Those regulations can be seen here:

https://regs.health.ny.gov/sites/default/files/pdf/emergency_regulations/Hospital%20and%20Nursing%20Home%20Personal%20Protective%20Equipment%20%28PPE%29%20Requirements.pdf

Please note: The previous regulatory requirements related to PPE are no longer in effect; nevertheless, all pending enforcement actions related to the regulations that were in effect prior to 7/30/2021 will be completed.

These new PPE regulations became effective July 30, 2021. Hospitals are required to be in compliance with this regulation's requirements no later than August 31, 2021. The first measurement date for HERDS reporting will be September 1, 2021.

Regulation:

The PPE requirements for general hospitals are in 10 NYCRR §405.11(g):

(1) The hospital shall possess and maintain a supply of all necessary items of personal protective equipment (PPE) sufficient to protect health care personnel, consistent with federal Centers for Disease Control and Prevention guidance, for at least 60 days, by August 31, 2021.

(2) The 60-day stockpile requirement set forth in paragraph (1) of this subdivision shall be determined by the Department as follows for each type of required PPE:

- (i) for single gloves, fifteen percent, multiplied by the number of the hospital's staffed beds as determined by the Department, multiplied by 550;
- (ii) for gowns, fifteen percent, multiplied by the number of the hospital's staffed beds as determined by the Department, multiplied by 41;
- (iii) for surgical masks, fifteen percent, multiplied by the number of the hospital's staffed beds as determined by the Department, multiplied by 21; and
- (iv) for N95 respirator masks, fifteen percent, multiplied by the number of the hospital's staffed beds as determined by the Department, multiplied by 9.6.

(3) The Commissioner shall have discretion to increase the stockpile requirement set forth in paragraph (1) of this subdivision from 60 days to 90 days where there is a State or local public

health emergency declared pursuant to Section 24 or 28 of the Executive Law. Hospitals shall possess and maintain the necessary 90-day stockpile of PPE by the deadline set forth by the Commissioner.

(4) Failure to possess and maintain the required supply of PPE may result in the revocation, limitation, or suspension of the hospital's license; provided, however, that no such revocation, limitation, or suspension shall be ordered unless the Department has provided the hospital with a fourteen day grace period, solely for a hospital's first violation of this section, to achieve compliance with the requirement set forth herein.

Formula:

For the purposes of determining compliance with these regulations, the Department directs that the calculation of compliance be completed as follows:

$((15\% \times [\text{maximum staffed bed days from the period of April 1, 2020} - \text{April 1, 2021}]) \times (\text{item multiplier}) \times (60 \text{ days}))$

Example:

Using single gloves - as detailed in (g)(2)(i) above - in a hospital that had a single day maximum of one hundred staffed beds during that period as an example, and a multiplier of 550 for 60 days:

$15\% \text{ of the bed count} \times \text{multiplier} \times 60 \text{ days} = \text{PPE count needed}$
 $(15\% \times 100 \text{ beds}) \times (550) \times (60) = 495,000 \text{ single gloves}$

Department plan to Aid Compliance:

To ease compliance, the Department has calculated each hospital's required level of PPE for each category. In order to aid each hospital in meeting these requirements, we will provide a calculation for each hospital and provide that report via - Health Commerce Distribution Management System (HCDMS). This application, which is present within the Health Commerce System (HCS), allows for specific files to only be visible to a specific organizations and role within HCS. The specialized file for each hospital will be distributed via HCDMS to the CEO, COO and HERDS responder role within HCS.

Additional Information:

As it relates to face coverings, the Department continues to urge the use of face coverings and maintaining appropriate levels of face coverings in accordance with previously published guidance.

Questions concerning this DAL can be addressed to hospinfo@health.ny.gov

Sincerely,

Stephanie Shulman, DrPH, MS
Director
Division of Hospitals and Diagnostic & Treatment Centers