



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

May 28, 2021

Re: DAL NH 21-10
LTC Facility Vaccine Immunization
Requirements for Residents and Staff

Dear Nursing Home Administrator:

The Centers for Medicare and Medicaid Services (CMS) published on May 11, 2021, Interim Final Rule - COVID-19 Vaccine Immunization Requirements for Residents and Staff which can be located in [QSO-21-19-NH \(PDF\)](#).

Initially, the Department of Health reminds administrators that nothing in QSO-21-19-NH absolves the operator and administrator of every nursing home regulated pursuant to 10 NYCRR Part 415 to ensure all new personnel, including employees and contract staff, **and** every new resident and resident readmitted to the facility has an opportunity to receive the first or any required next dose of the COVID-19 vaccine within fourteen days of having been hired by or admitted or readmitted to such facility, as applicable, pursuant to recent State regulations at 10 NYCRR 66-4.2. Likewise, these State regulations require all nursing homes to offer all consenting, unvaccinated existing personnel and residents an opportunity to receive their first or any required next dose of the COVID-19 vaccine within fourteen days of the effective date of the regulation.

In comparison, the CMS interim rule establishes **Long-Term Care (LTC) Facility Vaccine Immunization Requirements for Residents and Staff**. This includes new requirements for educating residents or resident representatives and staff regarding the benefits and potential side effects associated with the COVID-19 vaccine and offering the vaccine. Specifically, these new requirements at 42 CFR §483.80(d)(3)(i)-(vii) require LTC facilities to develop policies and procedures to educate residents or resident representatives and staff regarding the benefits and potential side effects associated with the COVID-19 vaccine and offer the vaccine unless it is medically contraindicated or the resident or staff member has already been immunized. Additionally, the facility must maintain appropriate documentation to reflect that the facility provided the required COVID-19 vaccine education, and whether the resident and staff member received the vaccine.

In addition, CMS added a new requirement at 42 CFR §483.80(g)(1)(viii)-(ix) for LTC facilities to report COVID-19 vaccine status of residents and staff, each dose of vaccine received, COVID-19 vaccination adverse events, and therapeutics administered to residents for treatment of COVID-19. As already required at §483.80(g)(2), this data also must be reported to the Center for Disease Control and Prevention's (CDC) National Healthcare Safety Network (NHSN) system and CMS intends to post the new information collected on the CMS COVID-19 Nursing Home Data website. This reporting will help public health agencies and stakeholders

monitor the level of vaccinated residents and staff and target resources accordingly to improve vaccination rates. Additionally, reporting the use of therapeutics will help agencies and stakeholders monitor the prevalence of these treatments, their impact on reducing the effect of COVID-19 on nursing home residents, and support allocation efforts to ensure that nursing homes have access to supplies to meet their needs.

Noncompliance related to the new federal requirements for educating and offering COVID-19 vaccination to residents and staff will be cited at **F-tag 887**. **As of May 21, 2021, to determine compliance with §483.80(d)(3), surveyors will request a facility point of contact to provide information on how residents and staff are educated about and offered the COVID-19 vaccine, including samples of educational materials.** Surveyors will also request a list of residents and staff and their COVID-19 vaccination status from which they will select a sample of residents and staff to review records and conduct interviews to confirm they were educated on and offered the COVID-19 vaccine in accordance with the new requirements.

Facilities must continue submitting their COVID-19 data to NHSN at least weekly, but no later than Sunday at 11:59 p.m., each week. **Facilities must begin including vaccination and therapeutic data reporting in facility NHSN submissions by 11:59 p.m. Sunday, June 13, 2021.** To be compliant with the new reporting requirements, facilities must submit the data through the NHSN reporting system at least once every seven days. Facilities may choose to submit multiple times a week. Noncompliance related to COVID-19 vaccination reporting will be cited at F-tag 884.

Please carefully review QSO-21-19-NH and the newly adopted federal regulations as soon as possible to effectuate the new requirements. Thank you for your commitment to ensure all eligible and consenting nursing home residents and staff have the opportunity to be vaccinated.

Sincerely,

Sheila McGarvey
Director, Division of Nursing Homes
and ICF/IID Surveillance
Center for Health Care Provider Services
and Oversight

cc: Dr. R. Becker
Ms. J. Treacy
Mr. A. Herbst
Mr. M. Hennessey
Ms. V. Deetz
Ms. M. Vogel