



The Commonwealth of Massachusetts

Executive Office of Health and Human Services

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ORDER OF THE COMMISSIONER OF PUBLIC HEALTH

COVID-19 Public Health Emergency Order No. 2021-4

Issued August 4, 2021

On May 28, 2021, pursuant to Section 2A of Chapter 17 of the General Laws, Governor Charles D. Baker declared that an emergency exists that is detrimental to the public health in the Commonwealth due to the continuing threat of COVID-19, and authorized the Commissioner, with the approval of the Public Health Council, to adopt measures to facilitate COVID-19 testing and vaccination, to mandate special measures to protect higher risk populations or to effectuate continued surveillance of COVID-19, and to respond as necessary to outbreaks of the virus as they may arise.

As of July 30, 2021, the Department reported 672,488 confirmed cases of COVID-19 and 17,714 deaths among confirmed cases in the Commonwealth. As of that date, the Department reported 34,044 confirmed or probable cases of COVID-19 among residents and staff of nursing homes in the Commonwealth, and 5,613 deaths among those confirmed and probable cases, with 5-fold increase in resident and staff cases and an observed increase in COVID-related resident deaths over the past 30 days. COVID-19 presents increased risk of severe illness, complications, and death to older adults and particularly those with chronic conditions. Immunization is the most effective method for preventing and mitigating infection from COVID-19, including possible hospitalization or death. Further, responding to and treating outbreaks of COVID-19 utilizes priority resources including personnel, hospital beds and personal protective equipment.

Consistent with the Governor's May 28, 2021 declaration, on June 9, 2021, the Public Health Council approved and authorized the Commissioner of Public Health to take such actions, incur such liabilities, and establish such rules, requirements and procedures which are necessary to prepare for, respond to, and mitigate the spread of COVID-19 in order to protect the health and welfare of the people of the Commonwealth. Accordingly, having received that authorization from the Council and with the approval of the Governor, I issue the following Order:

All nursing homes must ensure that all personnel are fully vaccinated against COVID-19 by October 10, 2021, unless such administration is medically contraindicated, which means administration of COVID-19 vaccine is likely to be detrimental to the individual's health, or the

individual objects to vaccination on the basis of a sincerely held religious belief, and the individual is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the nursing home. Personnel may not otherwise decline the vaccine. As of October 10, 2021, nursing 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. Nursing homes should ensure that all personnel have received at least the first dose of COVID-19 vaccine, if they are receiving a two dose series by September 1, 2021.

For purposes of this Order:

“Nursing home” means long-term care facilities licensed pursuant to G.L. c. 111, § 71 that provide Levels I, II and/or III care, as those terms are defined in 105 CMR 150.001.

“Personnel” means an individual or individuals employed by or affiliated with the facility, whether directly, by contract with another entity, or as an independent contractor, paid or unpaid including, but not limited to, employees, members of the medical staff, contract employees or staff, students, and volunteers who either work at or come to the licensed facility site, whether or not such individual(s) provide direct care.

All facilities subject to this Order must maintain documentation of vaccination of personnel and must report to the Department no later than October 10, 2021, in a form and manner directed by the Department.

Violations of this Order shall be enforced against licensed facilities as provided by 105 CMR 153.000. As of October 10, 2021, the Department shall have the authority to order any nursing home that has fewer than 75% of personnel vaccinated against COVID-19 to stop accepting new admissions until such time as 75% or greater of the nursing home’s personnel are fully vaccinated.

This Order shall remain in effect until rescinded by me or the public health emergency is terminated by the Governor, whichever shall happen first.

IT IS SO ORDERED.



Margret R. Cooke
Acting Commissioner, Massachusetts Department of Public Health
August 4, 2021