



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Care Safety and Quality
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TO: Nursing Home Administrators
Rest Home Administrators

FROM: Margret Cooke, JD, Deputy Commissioner

DATE: March 5, 2021

RE: Update to Guidance Regarding Seasonal Influenza Vaccination of Healthcare Personnel at Massachusetts Nursing Homes and Rest Homes for the 2020-2021 Influenza Season

On October 6, 2020, the Commissioner of the Department of Public Health (DPH) issued a public health order (the Order) requiring all licensed Nursing Homes and Rest Homes to ensure that all personnel are vaccinated against influenza virus by December 31, 2020, unless such administration is medically contraindicated, which means administration of influenza vaccine is likely to be detrimental to the individual's health, or vaccination is against the individual's religious beliefs ("permissible exemptions"). Personnel may not otherwise decline the vaccine. Due to the Centers for Disease Control and Prevention (CDC) recommendation to avoid other vaccines for 14 days before and after the COVID-19 vaccine is administered, the Order has been modified to require all personnel are vaccinated by February 28, 2021.

As a condition of licensure, under 105 CMR 150.002(D)(8), DPH regulations require all licensed healthcare facilities to:

- Offer, free-of-charge, annual influenza vaccine to all personnel;
- Document receipt of influenza vaccine administered within and outside the facility or document the declination of immunization; and
- Report information to DPH, documenting compliance with the vaccination requirement, in accordance with these reporting and data collection guidelines.
 - Facilities may not report unknown vaccine status.

The purpose of this memorandum is to inform Massachusetts Nursing Homes and Rest Homes of the process to report mandatory personnel influenza data and to provide guidance for facilities to fulfill the requirement for submission of personnel influenza data to DPH in compliance with both the regulation and the Order.

To demonstrate compliance, a Nursing Home or Rest Home must meet the reporting requirements described below and must comply with any requests for documentation. Failure to comply with the requirements of the Order or failure to cooperate with any document requests with respect to the Order may result in penalties.

The Order defines personnel as an individual or individuals employed by or affiliated with the Nursing Home or Rest Home, 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.

Personnel requiring the influenza vaccination includes, but is not limited to, physicians; nurses; interns/residents; fellows; physician assistants; physical, occupational, respiratory and speech therapists; laboratory technicians; central supply staff; pharmacists; maintenance/environmental services staff; dietary staff; attendants/orderlies, secretarial and administrative staff; contract staff, whether or not such individuals provide direct patient care.

A key component of successful immunization programs includes senior leadership commitment and accountability for outcomes. Please see the References and Resources List aimed at assisting Nursing Homes and Rest Homes to develop influenza campaigns and identify best practices for improving personnel vaccination rates.

The Order requires all Nursing Homes and Rest Homes to provide DPH with their first data submission no later than March 15, 2021, documenting that each member of its personnel has either received the influenza vaccine by February 28, 2021 or declined based upon a permissible exemption. Following that first submission, all Nursing Homes and Rest Homes must provide a final submission on April 15, 2021.

Please see Data Submission Instructions for detailed instructions on how to successfully complete and submit HCP Influenza Vaccination data for the 2020-2021 season.

The deadline for first data submission is March 15, 2021 at 5:00 pm. To access the online survey, please log into the Virtual Gateway's Health Care Facility Reporting System (HCFRS) and create a new case. Once the case is open, under the incident type select "HCP influenza reporting" and complete the fields in the module.

This guidance serves as notice that if a facility fails to comply with the Order, including the reporting requirements set forth in this or subsequent guidance, it will be subject to the following penalties pursuant to G.L. c. 111, § 73 and 105 CMR 153.024(C)¹:

¹ If a Nursing Home or Rest Home has reason to dispute the penalty, they may request Administrative Review.

- DPH will impose a penalty of \$50 for a failure to report by March 15, 2021;
- DPH will impose a penalty of \$50 per day for failure to report data demonstrating compliance with the requirement that each member of its personnel has either received the influenza vaccine by February 28, 2021 or declined based upon a permissible exemption. Each member of the facility's personnel for whom the facility has not submitted the required data is a separate violation.

A facility that is not in compliance with the Order on February 28, 2021 will have the period from March 1, 2021 until the March 15, 2021 reporting date as its opportunity to remedy its noncompliance. For facilities that are not in compliance by March 15, 2021, fines will continue to accrue from March 1, 2021 until the facility submits data, as instructed in the Data Submission Instructions, demonstrating full compliance with the Order. A facility may update its data submission at any time, as additional staff receive influenza vaccination.

Subsequent Data Submissions

Each facility must also submit influenza vaccination data on April 15, 2021. . DPH will impose a fine of \$50 per day for each member of facility personnel who has not received the influenza vaccination or does not have a religious or medical exemption.

To facilitate timely, accurate and complete reporting of the personnel influenza vaccination measure, please ensure that this memorandum is forwarded to all persons in your healthcare facility responsible for infection prevention, employee health, and quality management reporting including but not limited to: Infection Preventionists, Occupational Health Professionals, Nursing and Medical Directors, Directors of Quality Improvement, and Directors of Human Resources.

Annual vaccination is the most important measure to prevent seasonal influenza infection.² Protecting healthcare personnel and preventing the transmission of influenza to patients and communities is a shared responsibility. DPH is dedicated to working with you to ensure that patients and personnel are protected. Thank you for your ongoing participation in this important initiative. Please submit questions concerning the reporting and data submission requirements to the Bureau of Health Care Safety and Quality at dhcq.fludata@state.ma.us.

² <http://www.cdc.gov/flu/professionals/infectioncontrol/healthcaresettings.htm>

Reporting Healthcare Personnel (HCP) Influenza Data for the 2020-2021 Influenza Season Data Submission Instructions

- DPH requires all Massachusetts Nursing Homes and Rest Homes to report HCP influenza data through HCFRS.
- Only reports submitted through HCFRS will be accepted.
- Each licensed Nursing Home, and Rest Home is required to report the following no later than March 15, 2021:
 - Number of healthcare facility personnel who worked in the healthcare facility for at least 1 day between October 1, 2020 and February 28, 2021.
 - Number of healthcare facility personnel who work at the healthcare facility as of February 28, 2021
 - Number of healthcare facility personnel who received an influenza vaccine at the healthcare facility since the influenza vaccine became available this season
 - Number of healthcare facility personnel who provided a written report or documentation of influenza vaccination outside the healthcare facility since influenza vaccine became available this season
 - Number of healthcare facility personnel who have a medical contraindication to the influenza vaccine
 - Number of healthcare facility personnel who report a religious exemption to the influenza vaccine.
- Each licensed Nursing Home, and Rest Home is also required to report no later than April 15, 2021:
 - Number of healthcare facility personnel who worked in the healthcare facility for at least 1 day between March 1, 2021 and March 31, 2021
 - Number of new healthcare facility personnel since the previous report and the number of days between start and confirmation of vaccination or exemption
 - Number of healthcare facility personnel who received an influenza vaccine at the healthcare facility since the influenza vaccine became available this season, total and specifying the number of new personnel
 - Number of healthcare facility personnel who provided a written report or documentation of influenza vaccination outside the healthcare facility since influenza vaccine became available this season, total and specifying the number of new personnel
 - Number of healthcare facility personnel who have a medical contraindication to the influenza vaccine, total and specifying the number of new personnel
 - Number of healthcare facility personnel who report a religious exemption to the influenza vaccine, total and specifying the number of new personnel
- Facilities may update their data by entering it in HCFRS at any time as additional personnel are vaccinated. Facilities will be held responsible for the data as reported until the facility submits new data.
- **To assist facilities in documenting, monitoring and tracking HCP influenza data throughout the flu season, DPH has developed a Facility Flu Tracking Tool available at the following link: <https://www.mass.gov/info-details/flu-vaccination-reporting-requirements-for-health-care-personnel>.**