



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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Commissioner

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Influenza and Pneumococcal Immunization
Requirements in LTC Facilities

Dear Long Term Care Facility Administrator:

This letter explains the requirements regarding influenza and pneumococcal immunization in long-term care facilities (LTCF) under both New York State Public Health Law and the new Centers for Medicare and Medicaid Services (CMS) final rule. Please ensure that all facility staff are knowledgeable about these rules and are aware of your responsibilities as a provider, so that the health and safety of all residents in your facility are protected.

1. New York State Public Health Law

Immunization Requirements

New York State Public Health Law, Article 21-A, also known as the Long-Term Care Resident and Employee Immunization Act, became law on April 1, 2000. In July 2000, the New York State Department of Health (NYSDOH) issued a Statutory Advisory describing the law and measures to ensure compliance with it. The Statutory Advisory is available on the NYSDOH web site at:

http://www.health.state.ny.us/nysdoh/infection/ltc_act/advisory.htm.

Complete information regarding the law is available at:

http://www.health.state.ny.us/nysdoh/infection/ltc_act/index.htm.

(This state law will not be affected by the new CMS final rule. LTCFs will continue to be required to comply with the state law.)

The state law requires LTCFs to offer to provide or arrange for immunization for all *residents and employees* as follows:

- o influenza vaccination annually; and
- o pneumococcal vaccination, per the recommendations of the Advisory Committee on Immunization Practices (ACIP).

The facility must notify all residents and employees that the facility will provide or arrange for immunization. No resident or employee is required to be immunized against either influenza or pneumococcal disease if:

- o he or she refuses the vaccine after being fully informed of the health benefits and risks of such action;
- o such immunization is medically contraindicated for that individual; or
- o such immunization is against the individual's religious beliefs.

Documentation

The state law requires facilities to document their immunization efforts. NYSDOH requires that documentation be in the following format:

- for individuals vaccinated at the facility – document in each individual’s record the date, site of administration, type of vaccine, dose, manufacturer and lot number of the vaccine, reactions if any, and the name of the person administering the vaccine;
- for individuals vaccinated at a location other than the facility - document in each individual’s record the date, type of vaccine, dose and name of the person administering the vaccine;
- for individuals not vaccinated as described by the law - document in each individual’s record the refusal to receive vaccine and the reason for the refusal.

Although the law states that immunization and documentation must take place no later than November 30 of each year, if vaccine supplies are not available by November 30, vaccination should take place as soon after November 30, as vaccine supplies are available. If an individual becomes a resident or an employee of the facility after November 30 but before April 1 and has not been immunized or if documentation is not available for such immunization, the facility must request that the individual be immunized, and the facility must provide or arrange for such immunization no later than April 1.

Annual Reporting

NYSDOH requires facilities to submit an annual report providing the numbers of residents and employees immunized during the previous year. This annual report is due to the department on May 1 each year. The one-page reporting form, DOH-4193, is available for printing out at:

<http://www.health.state.ny.us/nysdoh/infection/docs/form2004.pdf>.

Instructions for completing the reporting form are available at:

<http://www.health.state.ny.us/nysdoh/infection/docs/doh4193instructions.pdf>.

Optional worksheets for use in collecting the data needed to complete the reporting form are available at:

<http://www.health.state.ny.us/nysdoh/infection/docs/chart.pdf> and

<http://www.health.state.ny.us/nysdoh/infection/docs/chart2.pdf>.

Completed forms are returned to the NYSDOH by mail. By spring of 2006, the NYSDOH will transition this reporting method to electronic reporting via the HERDS application on the Health Provider Network (HPN). Additional details regarding this change in reporting method will be provided to you well in advance of the transition.

2. Centers for Medicare and Medicaid Services (CMS) Final Rule

Immunization Requirements

On October 7, 2005, CMS published a final rule in the *Federal Register* requiring nursing homes serving Medicare and Medicaid beneficiaries to provide immunizations against influenza and pneumococcal disease to all **residents**.

As a condition of continued participation in the programs, the rule requires that nursing homes ensure that each resident is:

- offered influenza immunization annually;
- immunized against influenza unless medically contraindicated or when the resident or the resident’s legal representative refuses immunization;
- offered pneumococcal immunization once, if there is no history of immunization; and
- immunized against pneumococcal disease unless medically contraindicated or when the resident or the resident’s legal representative refuses immunization.

Under the rule, nursing homes will also be required to educate the resident and/or the resident’s family about the advantages and possible disadvantages of receiving the vaccines. Nursing homes are also required to document in the medical record that education was provided regarding the benefits and potential side effects of influenza and pneumococcal immunization. CMS is also encouraging, but not requiring, nursing homes to provide influenza vaccine to their healthcare **workers**.

3. Influenza Vaccine Supply Survey

The Department will work with providers to collect data to assess vaccine supply in facilities. A survey will be posted to the Health Provider Network (HPN) shortly, to begin this process. Please access the HPN anytime after November 22, complete the survey, and submit the completed document through the HPN by Wednesday, November 30.

4. Promoting Vaccine Uptake among Residents and Staff

Use of standing orders has been demonstrated to significantly increase coverage among residents and should be considered the standard of care. Studies have shown that vaccinating staff in nursing homes against influenza has reduced resident death rates by 40% (Potter et al. JID 1997;175:1 and Carman et al. Lancet 2000;355:93). Vaccination of staff has also been shown to improve patient safety and decrease work absenteeism by approximately half. However, as you know, persuading healthcare workers to be immunized annually against influenza is challenging. Strategies to improve healthcare worker vaccination rates should be implemented. Information on such strategies is available at: <http://www.nfid.org/publications/calltoaction.pdf>. One strategy, which demonstrates your commitment to staff vaccination, is to request employees who decline influenza vaccination to sign a refusal form.

If you have questions about anything included in this letter, please call Denise Breliia-Hyland at 518-408-1282.

The Department of Health is committed to working with you to ensure the protection of your residents. Thank you in advance for your cooperation during this important season.

Sincerely,



Keith W. Servis, Director
Division of Quality and Surveillance
for Nursing Homes and ICFs/MR