

GREATER NEW YORK HEALTH CARE FACILITIES ASSOCIATION

519 Eighth Avenue, 16th Floor, New York, NY, 10018

Phone: 212-643-2828 Fax: 212-643-2956

www.gnyhcfa.org www.twitter.com/GNYHCFA www.gnyhcfa.wordpress.com

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TO: ALL MEMBER FACILITIES

FROM: ROBIN C. ROSEN, ESQ., LABOR COUNSEL

DATE: JANUARY 13, 2021

RE: UPDATE TO HEALTH ADVISORY: REVISED PROTOCOLS FOR
PERSONNEL IN HEALTHCARE AND OTHER DIRECT CARE SETTINGS TO
RETURN TO WORK FOLLOWING COVID-19 EXPOSURE

Attached please find a copy of the recently issued DOH Update to Health Advisory regarding the return to work of personnel in healthcare and other direct care settings to return to work following COVID-19 exposure. This Advisory also includes guidelines for asymptomatic employees returning from travel and guidelines for healthcare entities with current or imminent staffing shortages that threaten the provision of essential patient services.

Guidance for Asymptomatic HCP Returning to Work After Being Exposed to COVID-19

This Health Advisory covers asymptomatic healthcare personnel (HCP) who have had exposure to or been in contact with a confirmed or suspected case of COVID-19, e.g. had higher-risk prolonged healthcare close contact with a patient, visitor or HCPs with a confirmed or suspected COVID-19 while not wearing recommended personal protective equipment; had close community contact within 6 feet of a confirmed or suspected case for 10 minutes or more; or was deemed to have had an exposure by a local health department. Asymptomatic HCPs in Nursing Homes with this exposure or contact may be released from quarantine after 10 days without testing if no symptoms have been reported during the quarantine period, **however they must remain furloughed from work for the full 14 days.**

This guidance also addresses asymptomatic HCPs returning from travel. Asymptomatic HCPs returning from travel to a non-contiguous state or a country or territory subject to a CDC Level 2 or higher COVID-19 risk assessment level or for which the COVID-19 risk level is designated by the CDC as unknown may return to work consistent with the essential worker requirements set forth in the Department's travel advisory, however such HCP shall receive a diagnostic test (PCR or antigen) for COVID-19 within 24 hours of arrival in New York and again on the fourth day after their return. Therefore, asymptomatic HCPs must quarantine for three days, get tested again on the fourth day and can return to work upon receipt of a second negative diagnostic test.

Health Care Personnel and COVID-19 Paid Sick Leave Law

HCPs who are furloughed due to exposure to or been in contact with a confirmed or known positive case may qualify for paid sick leave benefits, and their employers can provide them with a letter confirming this, which can be used to demonstrate eligibility for the benefit. However, New York employees will forgo their paid sick leave benefits from New York's COVID-19 paid sick of leave law if they engage in travel not directed by their employer to a country designated as having a Level 2 or higher health notice by the CDC or to states other than those contiguous to New York from the time of return to New York until the end of the required period of quarantine or isolation.

Guidelines for Nursing Homes with Current or Imminent Staffing Shortages that Threaten Provision of Essential Patient Services

Nursing Homes with an actual or anticipated inability to provide essential patient services may allow exposed HCPs to return to work early upon approval of the Commissioner of Health. Before requesting authorization to allow exposed HCPs to return to work early, nursing homes must ensure that they have in place strategies to mitigate healthcare personnel staffing shortages such as those outlined in CDC's December 14, 2020 Strategies to Mitigate Healthcare Personnel Staffing Shortages <https://www.cdc.gov/coronavirus/2019-ncov/hcp/mitigating-staff-shortages.html>. Nursing Homes should go to HCP's Return to Work Waiver (attached to the guidance) to complete the required checklist and upload the signed CEO attestation documenting that the facility has implemented or attempted to implement staffing mitigation strategies and is experiencing a current or imminent staffing shortage that threatens provision of essential patient services. If the Commissioner of Health approves the waiver, a nursing home will be allowed to implement crisis capacity strategies to mitigate staffing shortages.

If approved by the Commissioner of Health, under crises capacity strategies, entities may allow asymptomatic HCPs who have had exposure to or

been in contact with a confirmed or suspected case of COVID-19 within the past 10 days to return to work, provided the following conditions are met:

- HCPs must be asymptomatic.
- HCPs must have a negative test (PCR or antigen) to return to work after an exposure and subsequently be tested every 2-3 days after the first test until Day 10 after exposure.
- HCPs must self-monitor for symptoms and conduct daily temperature checks through Day 14.
- HCPs must quarantine when not at work consistent with the Department's guidance on quarantine.
- At any time, if the HCPs working under these conditions develop symptoms consistent with COVID-19, they should immediately stop work and isolate at home. All staff with symptoms consistent with COVID-19 should be immediately referred for diagnostic testing for SARS-CoV-2.

Again, the above protocols apply to HCP returning to work following COVID-19 exposure. It does not apply to HCP with confirmed or suspected COVID-19; for these employees, previous protocols must be followed.

The Department reminds nursing homes they must contact the Department's Surge and Flex Operations Center at 917-909-2676 anytime they are concerned about staffing, patient care capacity or other triage concerns. The Surge and Flex Operations Center is available 24 hours a day, 7 days a week.

Thank you.