

NEW COVID-19 VACCINATION REQUIREMENTS FOR NEW YORK NURSING HOMES AND ADULT CARE FACILITIES

In Emergency Regulations posted on the New York State Department of Health’s website, DOH is requiring that nursing homes offer all consenting, unvaccinated personnel and residents an opportunity to receive the first or any required next dose of the COVID-19 vaccine by April 29th. Similarly, adult care facilities (ACFs) must make diligent efforts to arrange for all consenting, unvaccinated personnel and residents to register for a vaccine appointment by April 22nd. The emergency regulations are posted [here](#).

In addition, nursing homes must:

- Post conspicuous signage throughout the facility, including at entry and exit points and each residential hallway, reminding personnel and residents that the facility offers COVID-19 vaccination.
- Ensure that all new personnel, including contract staff, and every new resident and resident readmitted to the facility has an opportunity to receive the COVID-19 vaccine within fourteen days.

ACFs must:

- Screen prospective or newly admitted/readmitted residents for COVID-19 vaccine eligibility, and, within seven days, make diligent efforts to schedule such consenting residents for the vaccination.
- Screen prospective personnel regarding their vaccination status during the hiring process and within seven days of hiring, make diligent efforts to schedule all consenting new personnel for the vaccination.

Both nursing homes and ACFs must:

- Give all personnel and residents who decline to be vaccinated a written affirmation to sign, indicating that they were offered the opportunity to be vaccinated, but declined and that if they later decide to be vaccinated, it is their responsibility to request the facility provide or arrange for their vaccination, as applicable.
- Certify weekly to DOH that they have offered or arranged for (as applicable) all new unvaccinated residents and personnel an opportunity to obtain the COVID-19 vaccine within the required time frame (14 days for nursing homes/ 7days for ACFs).
- Appropriately document their efforts as specified in the regulation.

Penalties - Nursing homes and ACFs that violate the above requirements are subject to both criminal and civil penalties. For example, nursing homes may be fined (under Public Health Law §12) up to \$2,000 for each violation, which increases up to \$5000 for repeat violations. Adult care facilities may be fined up to \$1,000 per day as the failure to arrange for the vaccination of every facility resident and personnel may constitute a “failure in systemic practices and procedures” under Social Services Law and related regulations. Anyone who “willfully” violates the regulation may be subject under Public Health Law 12-b to imprisonment up to one year, or a fine up to \$10,000 or both. DOH may also immediately take custody and control of vaccine at a nursing home and re-allocate it in accordance with the State’s Vaccination Plan.

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Should you have any questions regarding the above, please contact the [Garfunkel Wild attorney](#) with whom you regularly work, or contact us at info@garfunkelwild.com.

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