

NEW YORK / FEDERAL VACCINE REQUIREMENTS FOR LTC FACILITIES

In a Dear Administrator Letter (“[DAL](#)”) dated May 28, 2021, the New York State Department of Health highlights the differing requirements long-term care (“LTC”) facilities must meet regarding COVID-19 vaccinations under recent federal and state regulations.

Under federal regulations adopted by CMS effective May 21, 2021 (42 C.F.R. §§483.80[d][3] and [g][viii]–[ix]), LTC facilities must:

- educate residents (or resident representatives) and staff regarding the benefits and potential side effects associated with the COVID-19 vaccine and offer the vaccine unless medically contraindicated or the resident or staff member has already been immunized;
- develop policies and procedures for providing such education;
- maintain appropriate documentation demonstrating that the education was provided and whether the resident or staff member received the vaccine; and
- report the COVID-19 vaccine status of residents and staff, each dose of vaccine received, adverse events related to the administration of the vaccine and therapeutics administered to residents for treatment of COVID-19.

DOH specifies in the DAL that to ensure compliance, surveyors will be requesting a facility point of contact to provide information on how residents and staff are educated about and are offered the vaccine, including samples of educational material. Data regarding vaccinations and therapeutics must be included in NHSN submissions no later than 11:59 p.m. on Sunday, June 13th.

As we previously reported in a [Client Alert](#) dated April 21, 2021, NY State recently adopted emergency regulations (10 N.Y.C.R.R. §66-4.2) that require nursing facilities to:

- 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 of having been hired or admitted or readmitted to the facility.

As the DAL points out, the new federal regulations do not impact the state emergency regulations and do not absolve nursing home administrators from meeting the state requirements.

* * * * *

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.

Contact Information:

111 Great Neck Road
Great Neck, NY 11021
516.393.2200

411 Hackensack Avenue
Hackensack, NJ 07601
201.883.1030

350 Bedford Street
Stamford, CT 06901
203.316.0483

677 Broadway
Albany, NY 12207
518.242.7582

If you would like to receive Legal Alert mailings from Garfunkel Wild, P.C. electronically in the future, or if you would like to be removed from the mailing list, please contact us at info@garfunkelwild.com. This material is intended as informational only and the content should not be construed as legal advice. Readers should not act upon information in this material without first seeking professional advice. This material may be considered Attorney Advertising under certain rules of professional conduct. © 2021 Garfunkel Wild, P.C.