



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

January 7, 2021

Re: NH-21-01 Nursing Home Staff Testing
Requirements

Dear Nursing Home Operators and Administrators:

On January 4, 2021, Governor Andrew M. Cuomo signed Executive Order (“EO”) 202.88, to require all nursing homes to test personnel for COVID-19 as directed by the Commissioner of Health (Commissioner). This modifies prior requirements for staff testing established in EOs 202.30, 202.40, and 202.73.

Pursuant to EO 202.88, and in consideration of the continued and sustained community spread of COVID-19 in all regions of the state, the Commissioner is directing nursing homes to increase the frequency of testing of staff, as an essential measure to protect residents and ensure prompt and appropriate care for staff. This DAL provides additional direction and guidance on how to implement these updated requirements.

Operators and administrators of all nursing homes are required to test or arrange for the testing of all personnel, including all employees, contract staff, medical staff, operators and administrators, for COVID-19 twice per week in all nursing homes. Any positive test result must be reported to the Department by 1:00 p.m. of the day following receipt of such test results, in accordance with existing reporting protocols and mechanisms.

Each nursing home will have 7 days from the date of this notice to be in full compliance with this directive and must continue to comply with all prior applicable directives and guidance. To facilitate the increased testing of nursing home staff in New York State, the New York State Department of Health (Department) will begin distributing Abbott BinaxNow COVID-19 antigen tests directly to nursing homes. These tests are to be used to perform a second weekly test of all staff. The number of tests being provided to each nursing home is based on the total number of staff that was reported to the Department. Tests will be allocated on a monthly basis, with the first delivery occurring within a week.

Please be advised that any nursing home that fails to comply with this directive may be subject to a penalty of \$2,000 per violation per day, and \$10,000 per violation per day for any subsequent violations. Additionally, the Department may suspend or revoke such facilities operating certificate, and a receiver appointed to continue operations on 24 hours’ notice.



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Thank you for your ongoing commitment and efforts to protect the health and safety of your residents and staff. If you have further questions regarding this DAL, please contact the Division of Nursing Homes /IID Surveillance Bureau of Quality Assurance and Surveillance at covidnursinghomeinfo@health.ny.gov.

Sincerely,

Sheila McGarvey, RN BSN, Director
Division of Nursing Homes and ICF/IID
Surveillance
Center for Health Care Provider Services
and Oversight
Office of Primary Care and Health Systems
Management