

INFLUENZA SEASON AND RELATED OBLIGATIONS TO COMMENCE

Home Care Alert
December 14, 2017

Effective December 13, 2017, New York State Department of Health Commissioner Dr. Howard Zucker has declared influenza to be prevalent in New York State for the 2017-18 influenza season. The Commissioner's Health Advisory invokes the regulatory requirements of Section 2.59 of the New York State Sanitary Code (**10 NYCRR § 2.59**). Under this regulation all healthcare and residential facilities and agencies regulated under Articles 28, 36, or 40 of the Public Health Law must ensure that all personnel who have patient contact, and are not vaccinated against influenza, wear a surgical or procedure mask while in areas where patients or residents are typically present. The declaration will remain in effect until the Commissioner declares influenza no longer prevalent in New York State.

Employees of Certified Home Health Agencies and Licensed Home Care Services Agencies, including personal care aides and home health aides, and employees providing private duty care, must abide by the regulatory requirement. Per DOH guidance, agency personnel who have not been vaccinated must wear a mask even if they have already had the flu this year. Home care personnel are expected to change masks from house to house. Note that the regulation does NOT apply to personal care assistants employed under the Consumer Directed Personal Assistance Program, as CDPAP is not licensed under the Articles affected by the regulation.

Agencies should activate their policy and procedures to ensure compliance with **10 NYCRR § 2.59**.

If you have any questions, please do not hesitate to reach out to any member of the Hodgson Russ Home Care Group.

The Hodgson Russ Home Health Care Practice was formed to cohesively deliver a broad spectrum of legal services to our clients in the home health care industry. Our group includes attorneys with a broad array of skills, uniquely positioned and experienced, to assist home health care organizations with all of their business and legal needs. If you are interested in learning more about our services in this area, please contact Emina Poricanin at eporican@hodgsonruss.com

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