

HEALTH LAW WIRE

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DOH Gets Green Light to Mandate COVID Boosters for Covered Entities

Affects: Hospitals, Nursing Homes, D&T Clinics, Home Care Agencies, Hospices, Adult Care Facilities and Some Specialized Settings

On Jan. 11, 2022, New York State's Public Health and Health Planning Council (PHHPC) approved Governor Kathy Hochul's proposed COVID-19 "booster mandate" for all health care employees and vendor staffing in entities regulated by the Public Health and Health Planning Council (PHHPC). The PHHPC will implement this mandate through an amendment to 10 NYCRR § 2.61: "Prevention of COVID-19 Transmission by Covered Entities."

According to the amendment to part 2.61(c), "[c]overed entities shall continuously require personnel to be fully vaccinated against COVID-19, **and to have received any booster or supplemental dose as recommended by the CDC**, absent receipt of an exemption as allowed below." (emphasis added). As with the existing mandate, this booster amendment applies to hospitals, nursing homes, adult care facilities, home care providers, hospice and diagnostic and treatment centers. The regulation maintains that an exemption can only be granted for medical reasons, and that there is no test-out option. However, this rule does offer covered entities some flexibility as eligible workers have a two-week period to obtain the booster, in an effort to minimize employee absences due to booster-related side effects. The emergency regulation will become effective once filed with the Department of State. [The regulation is available here.](#) It will remain in effect for 90 days from the date of filing, unless renewed. A comprehensive assessment of all COVID-related vaccine mandates will be sent to clients by our firm later this week as we near a possible Supreme Court decision on the pending CMS mandates nationwide.

Should you have any questions on this, please feel free to contact [Catherine A. Graziose](#) or any attorney in our Health Care practice for additional information.

Bond's **Health Care** practice is a multi-disciplinary team devoted to representing all types of health care providers.

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