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DOH Mandates COVID-19 Testing Prior to Nursing Home Visitation

In conjunction with a new set of emergency regulations proposed by the Public Health and Health Planning Council (PHHPC), the New York State Department of Health (NYSDOH) has released an updated Health Advisory on nursing home staff and visitation requirements that went into effect on **Jan. 12, 2022**. Subject to very limited exceptions, nursing homes must verify that visitors have received a negative SARS-CoV-2 test result **one day prior to visitation for antigen tests and two days prior to visitation for NAAT (e.g. PCR) tests**.

All visitors may use either NAAT testing or antigen testing. The Health Advisory provides the following example: a test for a Sunday visit should be conducted no earlier than Saturday if it's an antigen test or Friday if it's a PCR test. Any PCR or antigen test used must either have Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services. Facilities can offer to conduct onsite testing of visitors, if practical, but facilities **must** have policies and procedures in place to review and report results of SARS-CoV-2. Records of SARS-CoV-2 tests must be made available, upon request, to the local health department and the NYSDOH. For multiple-day visitors, a negative test result should be obtained as often as feasible, but at a minimum must be obtained every third day.

In addition, the Health Advisory reiterated the following: all nursing homes must continue to require personnel to be up to date on their COVID-19 vaccinations (to include the booster, once the amended regulation takes effect); all staff must be masked at all times, regardless of vaccination or booster status; and visitors must wear a well-fitting non-surgical paper mask or a mask of higher quality (i.e., surgical mask, KN95 or N95) at all times. Cloth masks may be placed over the paper mask, but a cloth mask alone cannot meet the mask requirement.

If you have questions, please contact [Catherine Graziose](#), [Mark Mainello](#), any of the attorneys in our [Long Term Care practice](#) or the attorney in the firm with whom you are regularly in contact.

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