

July 29, 2021

Ms. Katherine E. Ceroalo  
NYS Department of Health Bureau of Program Counsel  
Regulatory Affairs Unit Corning Tower Building  
Room 2438 Empire State Plaza  
Albany, NY 12237  
Sent via email: REGSQNA@health.ny.gov

Re: [Amendment of Sections 487.9, 488.9 and 490.9 of Title 18 NYCRR \(Reducing Biannual Testing of Adult Care Facility Staff\)](#) published on 6/2/21, I.D. No. HLT-22-21-00003-P

Dear Ms. Ceroalo,

I am writing on behalf of LeadingAge New York's non-profit adult care facility (ACF) members to offer comments on regulations on the amendments to regulations regarding tuberculosis (TB) screening of staff working in ACFs.

We appreciate the Department's efforts to update the regulations to reflect the most current clinical standards regarding the screening of personnel for TB. We are confused, however, regarding the following proposed language:

*The medical staff shall develop and implement policies regarding positive findings, including procedures for facilitating and documenting treatment for latent TB infection where indicated.*

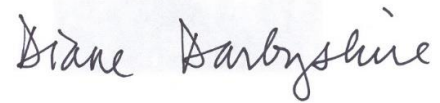
Not all ACFs have medical staff, as they are not required to have them, and thus it is unclear who the Department is referring to with the inclusion of that term. That term should be replaced with operator or administrator of the ACF. For those ACFs that do have licensed professionals, however, we urge that they be able to be used in this process.

LeadingAge NY recommends that, after the initial baseline TB test, annual assessments be conducted within the context of the employee's annual health assessment. We urge the Department to also permit, if the ACF or their parent organization employs an appropriate licensed professional such as a registered nurse (RN), that the professional be able to conduct the TB assessment as well, consistent with the commensurate changes made to Assisted Living Residence and Licensed Home Care Services Agency regulations. The annual TB assessment shall include education, individual risk assessment, and follow-up tests as indicated. The administrator/operator can then work with the professionals conducting the assessment-internal or external-for any follow-up that as necessary, and to develop a process regarding those with latent TB infection.

To sum, we urge you to modify the proposed language to direct the ACF leadership to develop appropriate policies and procedures, and to include language that expressly permits, for those ACFs that employ RNs or other licensed professionals, the ability to do the TB assessment.

Thank you very much for your consideration of these issues.

Sincerely,

A handwritten signature in black ink that reads "Diane Darbyshire". The signature is written in a cursive style and is positioned above a faint, light-colored rectangular stamp or watermark.

Diane Darbyshire, LCSW  
Senior Policy Analyst