



## Department of Health

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Commissioner

**JOHANNE E. MORNE, M.S.**  
Acting Executive Deputy Commissioner

September 25, 2023

DAL NH 23-17  
Subject: PPE Stockpile  
Requirements for Nursing Homes

Dear Nursing Home Administrator:

As recently articulated in Dear Administrator Letter #23-15, the New York State Department of Health (“Department”) continues to recognize COVID-19 as an ongoing threat to the health of long-term care facility residents and staff. The purpose of this letter is to remind nursing homes administrators of the statutory obligation for facilities to maintain or contract to have at least a two-month supply of personal protective equipment (“PPE”) pursuant to Public Health Law (“PHL”) section 2803(12).

It is critically important that PPE, including masks, gloves, respirators, face shields and gowns, is readily available and are used in order for nursing home staff to safely provide care for residents positive for any communicable disease, including but not limited to COVID-19, while also ensuring that they themselves do not become infected. Therefore, nursing homes must ensure sufficient PPE stockpiles exist for any future communicable disease outbreaks to ensure that each facility is adequately prepared to protect its staff and residents.

To determine a facility’s required two-month stockpile pursuant to PHL § 2803(12), the Department strongly advises facility administrators to continue to rely on the methodology currently set forth under emergency regulations at 10 NYCRR 415.19(f), notwithstanding that these emergency regulations will expire September 26, 2023, until such time as they may be permanently adopted. The emergency regulations outline the following calculations:

- i. **for single gloves**, the applicable positivity rate, multiplied by the nursing home’s average census, multiplied by 24;
- ii. **for gowns**, the applicable positivity rate, multiplied by the nursing home’s average census, multiplied by 3;
- iii. **for surgical masks**, the applicable positivity rate, multiplied by the nursing home’s average census, multiplied by 1.5; and
- iv. **for N95 respirator masks**, the applicable positivity rate, multiplied by the nursing home’s average census, multiplied by 1.4.

In the foregoing calculations, the term “applicable positivity rate” should be determined by applying the greater of the following rates:

- i. The nursing home's average COVID-19 positivity rate, based on reports made to the Department, during the period April 26, 2020 through May 20, 2020; or
- ii. The nursing home's average COVID-19 positivity rate, based on reports made to the Department, during the period January 3, 2021 through January 31, 2021; or
- iii. 20.15 percent, representing the highest Regional Economic Development Council average COVID-19 positivity rate, as reported to the Department, during the periods April 26, 2020 through May 20, 2020 and January 3, 2021 through January 31, 2021. This percentage shall also apply to all nursing homes previously designated by the Department as a COVID-positive only facility.

If you have any questions, please write to [covidnursinghomeinfo@health.ny.gov](mailto:covidnursinghomeinfo@health.ny.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Herbst", is positioned above the typed name.

Adam Herbst  
Deputy Commissioner  
Office of Aging and Long Term Care