



Department of Health

ANDREW M. CUOMO
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Commissioner

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Executive Deputy Commissioner

Date: February 1, 2021

To: Nursing Home Operators and Administrators

Health Advisory: Nursing Home Staff Testing and Payment Requirements

Please distribute immediately to:
Nursing Home Operators and Administrators

On January 4, 2021, Governor Andrew M. Cuomo signed Executive Order (“EO”) 202.88, to require all nursing homes to test personnel for COVID-19 as directed by the Commissioner of Health (Commissioner). This modifies prior requirements for staff testing established in EOs 202.30, 202.40, and 202.73.

Pursuant to EO 202.88, and in consideration of the continued and sustained community spread of COVID-19 in all regions of the state, the Commissioner has directed nursing homes to increase the frequency of staff testing to **twice weekly** as an essential measure to protect residents and to ensure prompt and appropriate care for staff (see [DAL NH-21-01](#), “Nursing Home Staff Testing Requirements”).

Nursing home providers are reminded that they are obligated to test or arrange for the testing of all personnel, including all employees, per diem staff, contract staff, medical staff, operators, administrators, and volunteers, as the Department stated in its June 24, 2020 guidance, “Executive Order 202.30 - Nursing Home and Adult Care Facility Staff Testing Requirement FAQ.” Facilities may submit claims to insurers for the cost of medically necessary COVID-19 testing, but if payment is not available for the staff members’ routine testing, facilities **must** pay for the testing.

Facilities are reminded that a failure to comply with the aforementioned testing requirements may be subject to a penalty of \$2,000 per violation per day, and \$10,000 per violation per day for any subsequent violations pursuant to Public Health Law section 12-b. Additionally, the Department may suspend or revoke such facilities’ operating certificate, and a receiver appointed to continue operations on 24 hours’ notice.

Questions should be sent to nursinghometesting@health.ny.gov.