



The Commonwealth of Massachusetts
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Circular Letter: DHCQ 09-12-525

TO: Clinic Chief Executive Officers
Dialysis Center Chief Executive Officers
Hospital Chief Executive Officers
Long Term Care Facility Administrators

FROM: Alice Bonner, PhD, RN, Director
Bureau of Health Care Safety and Quality

DATE: December 4, 2009

RE: Update on Regulations Regarding Influenza Vaccination of Employees and
Annual December 15th Deadline

Amendments to the Regulations

At its meeting on November 18, 2009, the Public Health Council (PHC) approved final promulgation of the amendments to the hospital, clinic and long term care facility licensure regulations relating to the influenza vaccination of health care workers in hospitals, clinics, dialysis centers, and long term care facilities (hereinafter referred to as health care facilities). In addition, the PHC approved amendments to the regulations implementing the Controlled Substances Act relating to the administration of influenza vaccines by designated health care professionals. These amendments had been previously approved on an emergency basis and were effective on September 14, 2009. In response to public comments, the Department proposed revisions to the amendments. These revisions (see Attachment A) were approved by the Public Health Council. The regulations will be final upon publication in the Massachusetts Register on December 11, 2009.

Availability of Vaccine and the Annual December 15 Deadline for Vaccinating Personnel

Each set of regulations includes a requirement that the health care facility shall ensure that all personnel are vaccinated with the seasonal influenza vaccine, unless an individual declines the vaccination, no later than December 15, 2009 and annually thereafter. The regulations also

include a requirement that the facility shall ensure that all personnel are vaccinated against other pandemic or novel influenza viruses as specified in guidelines of the Commissioner of Public Health. Previously issued guidelines directed health care facilities to “begin H1N1 2009 vaccination of all employees immediately upon receipt of the vaccine. Licensed health care facilities may determine the order in which employees are vaccinated against H1N1, and should complete vaccination as rapidly as the supply and vaccination schedule allow.”

Given the continuing shortages of H1N1 and seasonal influenza vaccine, health care facilities are faced with difficult decisions regarding how much vaccine of the limited supply to allocate to their employees and how much to allocate to their patients in the target groups. These decisions may be complicated by the intent of facilities to comply with the new Department of Public Health regulations that require facilities to vaccinate all personnel against seasonal influenza no later than December 15, 2009 and to offer H1N1 vaccine to all of their employees as that vaccine becomes available.

The Department recognizes that many - if not most – facilities will not be able to fully comply with these regulations until seasonal and H1N1 vaccine shipments increase. Furthermore, the Department wants to balance the need to vaccinate front-line health care workers with the need to vaccinate those patients at disproportionate risk. **Therefore, the Department recommends that health care facilities initially only prioritize the vaccination of those health care workers who are involved in direct and regular care-giving to patients in such settings as the inpatient care, emergency department, and outpatient clinics, particularly where the patient population may be at risk for complications.**

By mid-January, 2010, we are hopeful that the quantities of H1N1 vaccine will be sufficient that all health care workers can be vaccinated – including those employees who are not involved in direct, day-to-day patient care. Health care facilities may want to plan accordingly to offer the H1N1 vaccine to all employees at that time. **Facilities should not be concerned with meeting the December 15, 2009 timeline this year and will be deemed to be in compliance with the regulations as long as they are making good faith efforts to obtain and administer seasonal and H1N1 vaccine when supply becomes available.** Facilities should maintain documentation of their efforts to obtain and offer vaccine.

Thank you for your continuing efforts to protect the health of your employees and patients. If you have any questions concerning this guidance, please contact the Bureau of Health Care Safety and Quality at DPH.DHCQ@massmail.state.ma.us .