

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 21.00: COVID-19 TESTING FOR STAFF AT AGENCY FACILITIES

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21.01: Applicability

101 CMR 21.00 applies to staff at Agency facilities.

21.02: Purpose

The purpose of 101 CMR 21.00 is to identify staff with asymptomatic or symptomatic COVID-19 infections, in order to prevent viral transmission.

21.03: Definitions

As used in 101 CMR 21.00, unless the context requires otherwise, terms have the meanings in 101 CMR 21.03.

Agency. The Executive Office of Health and Human Services (EOHHS) or any department, agency, commission, office, board, division, or any other body within EOHHS as set out in M.G.L. c. 6A, § 16, including the Executive Office of Elder Affairs.

COVID-19. A contagious, sometimes fatal, respiratory disease caused by a newly discovered coronavirus that led to the declaration of a federal public health emergency and a state of emergency for the Commonwealth of Massachusetts.

COVID-19 Testing. The process of a collection of a specimen from an individual for the purposes of determining the presence or absence of SARS-CoV-2 viral material in said specimen at an EOHHS-approved COVID-19 testing vendor.

COVID-19 Testing Vendor. Providers of COVID-19 Tests as defined in 101 CMR 22.00.

21.04: COVID-19 Testing for Staff at Agency Facilities

(1) Testing Requirement. Staff at the following Agency facilities will receive periodic COVID-19 tests:

- (a) state hospitals;
- (b) the Chelsea and Holyoke Soldiers' Homes;
- (c) state-operated congregate care facilities; and
- (d) any other Agency facility designated by the Secretary.

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- (2) Staff Subject to Testing Requirement. The following staff are subject to mandatory, periodic testing for COVID-19 in accordance with implementation guidance issued by EOHHS:
- (a) All persons regularly reporting, whether part-time or full-time, paid or unpaid, working, interning, or volunteering at the physical facility or site, who have the potential for exposure to patients or residents or to infectious materials, including body substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air;
 - (b) Staff (whether employed directly by or contracted by an Agency) who are potentially exposed to infectious agents that can be transmitted to and from staff and patients or residents including but not limited to, direct care staff, clinicians, physicians, nurses, nursing assistants, therapists, technicians, dental personnel, pharmacists, laboratory personnel, students and trainees, and contractual personnel; and
 - (c) Staff not directly involved in patient or resident care but potentially exposed to infectious agents that can be transmitted to and from staff and patients or residents (such as administrative, clerical, dietary, housekeeping, human resources, laundry, security, maintenance, or billing staff; chaplains; volunteers; or any other individual working at the facility).
- (3) Staff Not Subject to Testing. The following staff are not subject to the testing requirement in 101 CMR 21.04(1):
- (a) persons who work entirely remotely or off-site;
 - (b) staff on leave, such as family medical leave; or
 - (c) temporary staff provided by the Commonwealth (such as by an EOHHS clinical rapid response team or the Massachusetts National Guard).
- (4) Failure to Comply with Testing Requirement. Agency staff who fail to comply with the testing requirement will be subject to discipline, up to and including, termination. Contracted staff will not be permitted to work at the facility.

21.05: Implementation and Clarification

- (1) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify substantive provisions of 101 CMR 21.00.
- (2) Implementation Guidance. EOHHS may develop policies, guidelines, or memoranda to implement 101 CMR 21.00, including testing requirements, frequency, or other process and operational components.

21.06: Severability

The provisions of 101 CMR 21.00 are severable. If any provisions of 101 CMR 21.00 or the applications of such provisions to any person or circumstance are held invalid or unconstitutional, the other provisions of 101 CMR 21.00, or the application of such provisions to any person or circumstance other than that as to which it is held invalid or unconstitutional, will not be affected thereby.

Final Adoption
January 8, 2021 (effective October 5, 2020)

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REGULATORY AUTHORITY

101 CMR 21.00: M.G.L. c. 6A, § 16.