August 1, 2023

William Anderson, Office of the General Counsel  
Department of Public Health  
250 Washington Street  
Boston, MA 02108  
  
Re: 105 CMR 150.000, *Standards for Long-Term Care Facilities – vaccination requirements*

On behalf of LeadingAge Massachusetts, I am writing to offer comments on proposed amendments to 105 CMR 150.000: *Standards for Long-term Care Facilities- vaccination requirements.*

With a mission to expand the world of possibilities for aging, LeadingAge Massachusetts is a statewide association representing the continuum of not-for-profit providers of housing, health care and services for older adults including nursing and rehab facilities, residential care facilities (rest homes), assisted living residences, life plan communities/continuing care retirement communities, subsidized senior housing and home and community-based service providers. Our members provide housing and services to more than 30,000 older adults in the Commonwealth. Governed by community-based volunteer boards of directors, close to a quarter of our members have been serving older adults in their communities for more than 100 years.

**We are extremely pleased that the proposed amendments align requirements for COVID-19 and influenza vaccine, allowing for an exemption to both requirements for individuals who decline to be vaccinated.** Long-term care providers worked tirelessly throughout the pandemic to ensure the health and safety of residents and staff in the face of a highly contagious and continuously evolving virus. Thanks to proactive and diligent education efforts, LeadingAge Massachusetts member communities led the way with high rates of COVID vaccination for both residents and staff. However, despite worthy efforts to increase the rates of COVID boosters received by personnel, these rates have stagnated. As much of the population has had a COVID infection despite being vaccinated, many have become reluctant to participate in additional vaccination efforts. Fortunately, due to high rates of immunity and highly effective therapeutics, rates of severe illness and mortality due to COVID have plummeted. We are in a very different place than we were in the fall of 2021 when the COVID-19 vaccine mandate was promulgated.

At the same time, long term care facilities continue to struggle to fill critical staff positions. The unprecedented workforce shortage in long-term care has led many facilities to turn away admissions due to their inability to ensure safe staffing levels. Unfortunately, due to reliance on public reimbursement rates, long term care facilities are unable to compete with hospitals and other health care settings that are able to pay higher wages for nurse aides and nurses. Long term care facilities have been further disadvantaged in recruiting staff due to the state COVID vaccine mandate while other providers, including hospitals, have not been subject to the same mandates. We are therefore extremely pleased that the allowance of a personal declination will now place long term care facilities on a similar playing field with other health care providers.

The one area of the proposed regulations that does not appear to be equivalent for all providers is relative to mitigation efforts for personnel who are exempt from receiving the vaccine. The proposed amendments **require** long term care facilities to use mitigation protocols for personnel who are exempt, however other providers **may** require such mitigation efforts. We strongly believe that the requirements for vaccination should be the same across health care providers, so we respectfully ask that the proposed amendments regarding mitigation efforts be amended to **allow, but not require** long term care providers to utilize them, consistent with the proposed regulations for other providers.

Finally, we ask that the Department amend the definition of personnel, for whom the vaccine requirements apply. We specifically ask that the Department eliminate references to students and volunteers. Many long term care facilities engage in intergenerational activities that involve student participation and volunteer activities that may be extremely time-limited, often to just one day. Requiring providers to obtain proof of vaccination status, including declination forms and tracking this information is extremely difficult and burdensome for facilities and may ultimately result in reduced participation by such schools and volunteers if such information is required. Such information should be required only for employees and contractors and those with regular or ongoing participation at a facility.

LeadingAge MA will continue to support our members efforts to provide education on the safety and effectiveness of important vaccines such as COVID-19 and flu in efforts to ensure the health and safety of residents and staff. We also look forward to working with the Department on additional efforts to develop our aging services workforce in an effort to better serve the Commonwealth’s older adults today and into the future.