



February 18, 2021

Howard A. Zucker, M.D., J.D.  
New York State Health Commissioner  
New York State Department of Health  
Empire State Plaza Corning Tower  
Albany, NY 12237

**Re: Post-Vaccine Policy Change Recommendations for ACFs/ALRs**

via email and mail

Dear Dr. Zucker:

An Empire State Association of Assisted Living (ESAAL) survey of its 300+ licensed Adult Care Facilities/Assisted Living Residence members shows that an average of 94% of their residents have accepted and received their COVID vaccination. Now, it is critical for their emotional, physical and mental well-being that some activities be allowed to resume with proper precautions. Moreover, not all rules for vaccinated staff should be the same as for unvaccinated staff. It is important to strike the right balance between continued preventive measures and resuming life activities. This balance can and must be achieved. According to healthcare professionals and scientists, the vaccine is safe and effective. Continued shutdowns as if the vaccinations never happened would send the resident, their families, and the public the wrong message about its efficacy. And it would further hurt our residents.

The following recommendations are based on the presence of low positivity rates in the outer community and the assumption of the continued ongoing practices of social distancing, wearing of facemasks, handwashing protocols and staff use of appropriate PPE.

**Vaccinations moving forward after the federal CVS/Walgreens program ends**

Ultimately, all new ACF staff and residents should be able to access the vaccine in any location (pharmacy, vaccine clinic, doctor's office, local health department) available. In the short term, because ACF staff and residents are prioritized as 1A:

- Local health departments, pharmacies and/or hospitals should be directed to prioritize, week-to-week, seniors awaiting admission to an ACF/ALR/ALP as well as new ACF/ALR/ALP staff members.

**Visitation, Communal Dining and Activities**

As mentioned above, early data indicates that a very high percentage of residents have received the vaccine, which has been scientifically proven to be 95% effective. The pandemic has taken an enormous detrimental toll on the emotional and mental well-being of residents. Prolonged isolation, while necessary during the height of the pandemic, has led to increased frequency of depression, anxiety, falls, and physical deterioration. Now that the industry has achieved a high level of resident vaccination, resident quarantining, as well as the 14-day shutdown of visitation, communal dining and small group activities when there is a positive case (staff or resident) should end.

- Visitation, communal dining and activities should continue for asymptomatic vaccinated residents even if an unvaccinated staff person or resident tests positive. Subsequently, these activities could be suspended temporarily if there are multiple cases within the facility and/or a large outbreak in the outer community.

- Communities would have a policy on where in the building visitation will take place to assure that the visiting party does not come into prolonged contact with other residents or unvaccinated staff.
- Asymptomatic vaccinated residents should not have to quarantine if there is a new positive resident or staff case.
  - Unvaccinated residents should continue to be quarantined if there is a positive case based on current CDC guidelines.
  - In all cases symptomatic vaccinated residents should be tested until such time that scientific evidence supports not doing so.

### **Residents leaving the building**

Before the pandemic, assisted living residents frequently left the assisted living community for visits, socialization and other activities. It is vital to their well-being. In areas where there is not a high positivity rate, this should resume.

- Vaccinated residents should not require a negative test before returning to the ACF.
- Upon returning, they should be screened for symptoms daily for 14 days.

### **Hospital discharge of residents with negative test**

ESAAL supports the Department directive that hospitals provide a negative test result before residents (both as inpatient and “under observation” status) are discharged back to the ACF. However, as per the CDC, recovered people continue to shed detectable RNA even when they are no longer infectious. To the great dismay of residents and their families, hospitalized, recovered residents that are beyond the infectious period but still testing positive are being sent to COVID- positive nursing homes. **In those cases, once the 14 days from the date of the positive swab have passed and the ACF can safely receive the recovered resident back with the ability to test them onsite:**

- they should be allowed to return to the ACF without the hospital producing a negative test.
- The resident would be placed in quarantine until they receive a negative test.

### **Prospective residents/family tours**

Getting the “feel” of an assisted living community is critical to the decision-making process of a prospective resident and their family. While virtual tours provide some insight as to the looks of the community, it is superficial and does not provide the prospective resident and family member the information they need to determine whether that ACF is a good fit. Prospective resident/family tours should be resumed under the following conditions:

- The tour is scheduled in advance and limited to the prospective resident and one family member/representative.
- Both the prospective resident and family member present evidence of either 2 doses of the vaccine, or a negative test taken within the past 24 hours.
- A staff member escorts the prospective resident and family member/representative the entire time and they may not enter any resident living space unless it is a vacant room/apartment in which no resident currently lives.
- No meal is provided
- For new admissions, movers may enter resident space if they present evidence of two doses of the vaccine.

### **In-house renovations and repairs**

For the past year many needed repairs and renovations have been postponed or canceled. These activities should be allowed to resume under the following criteria:

- The repairperson shows evidence of having received two doses of the vaccine.
- The ACF’s required Renovation Safety Plan for the project is updated to include COVID-related provisions such as PPE use, social distancing, etc.

### **Furloughing, Return to Work and Staff Testing**

Both the CDC and New York City Department of Health/Mental Hygiene do not recommend re-testing positive staff. As stated by the CDC:

**"A test-based strategy is no longer recommended (except as noted below) because, in the majority of cases, it results in excluding from work HCP who continue to shed detectable SARS-CoV-2 RNA but are no longer infectious."**

- A negative test before Return to Work should no longer be required for a staff member who tested positive when that person has furloughed for the required amount of time, has been fever free for at least 72 hours without medication and is asymptomatic.
- Recovered staff that have returned to work should not be subject to the weekly test for 90 days from the date of the taking of the positive swab.
  - If subsequently vaccinated, after the 90-days post-infection period, recovered staff should be tested monthly.
  - If not subsequently vaccinated, after the 90-days post-infection period, recovered staff should be tested weekly.
- Weekly testing of unvaccinated staff should continue
- Asymptomatic vaccinated staff should be tested once per month.
- Asymptomatic vaccinated staff should no longer be required to furlough after an exposure to a positive case as per CDC guidelines.

### **Employee health checks**

- Daily employee health checks should continue until the end of the public emergency.

Dr. Zucker, ESAAL's members are committed to continuing to take every safety measure possible to keep residents well. A critical aspect of keeping them well is letting them live their lives as much as possible. Members have reported that when they have been able to take residents off quarantine because they have had no positive cases in the past 14 days, residents are elated to have the ability to interact with other residents and visitors. It has been crushing to them when, suddenly, they must once again be shut down and they are committed back to their rooms or apartments. They view the vaccine as a game changer and have an expectation of returning to some normalcy and activity. ACF providers stand ready to help them do that safely.

As the vaccination clinics are quickly coming to a close, we respectfully request the Department's swift response in order to help our residents. Thank you for your consideration.

Sincerely,



Lisa Newcomb  
Executive Director

cc. Valerie Deetz