

Dignity Alliance Massachusetts Testimony Relative to Proposed Amendments to Department of Public Health Regulations relative to vaccination of personnel in certain health care facilities

August 1, 2023

Dignity Alliance Massachusetts respectfully offers the following comments relative to proposed amendments to 105 CMR 130.000, 140.000, 141.000, 150.000, 158.000, and 170.000.

While we have concerns, generally, with regard to a relaxation of vaccination requirements for direct care personnel in all of the health care facilities covered by these regulations, we are especially concern with regard to residents of long-term care facilities, including those being served by both hospice programs and adult day health programs since they are among our most vulnerable, often with compromised immunity to virus.

Furthermore, we strongly oppose any relaxation of the duty imposed upon facilities to ensure that direct care personnel employed by, or under contract with, the relevant facilities.

While state government has proclaimed the end of the COVID-19 Pandemic, the hard reality is that COVID and its variants are still present in our population. Last week, the *Boston Globe* reported Massachusetts on Thursday “reported 901 new confirmed coronavirus cases and 6 deaths in the last week. The state also reported that 130 patients were hospitalized with COVID-19. The seven-day percent positivity was 6.53 percent.”

¹Furthermore, CDC recommendations for Influenza vaccination are that “annual influenza (flu) vaccination for everyone 6 months and older in the United States on June 27, 2023.”² Dignity Alliance supports vaccination be required for those working in direct care settings of licensed health facilities. We oppose any relaxation of mandates for facilities to require all direct care workers, as well as dietary and maintenance workers who come in contact with residents, to maintain vaccination status. Those who are in the care of such facilities will be the victims of any new virus outbreak transmitted by unvaccinated caregivers, and the Department of Public Health will be responsible if the current regulations are relaxed or repealed.

¹ https://www.bostonglobe.com/2020/03/10/nation/latest-coronavirus-numbers-massachusetts/?s_campaign=breakingnews:newsletter

² [2023-2024 CDC Flu Vaccination Recommendations Adopted | CDC](#)

In addition to ongoing flu and COVID threats, the proposed loosening of vaccination requirements are also extremely concerning given the serious infection control concerns that existed prior to the COVID pandemic, as evidenced by the following May, 2020 General Accounting Office report: Infection Control Deficiencies Were Widespread and Persistent in Nursing Homes Prior to COVID-19 Pandemic³.

- The report stressed that a nursing home cited in multiple consecutive years is an indicator of persistent problems: 15.5% of MA nh [66 MA nh/427] were cited in multiple consecutive years.
- The GAO analysis of CMS data showed that infection prevention and control deficiencies were the most common type of deficiency cited in surveyed nursing homes, with most nursing homes having an infection prevention and control deficiency cited in one or more years from 2013 through 2017.
 - 63.7% of MA nursing homes had an infection prevention or control deficiency cited in 1 or more years during that 5-year period.⁴

We must ensure the safety of all who live and work and long-term care settings with the commonsense protections that vaccinations bring.

Furthermore, the proposed language to weaken MA immunization requirements is in direct opposition to a major CDC immunization effort launched in July, 2022 --- \$10.5M 5-year grant to AMDA, Society for Post-Acute and Long-Term Care Medicine. The goals of the pilot program, entitled the Moving Needles initiative⁵, are to assess, recommend, administer and document relevant routine adult vaccinations, including influenza, COVID-19, pneumococcal, Tdap and shingles for residents, and influenza, COVID-19 and Hepatitis B for staff members. The goal is to develop evidence-based interventions that follow [federal standards](#) and help to improve historically low immunization rates among LTC residents and staff members. MA should also be supporting these goals.

Given the apparent failure of the Department of Public Health to adequately protect nursing home residents during COVID, and the continued lax enforcement of minimum staffing and infection control requirements, Dignity Alliance is concerned that any weakening of vaccination requirements will lead to tragic outcomes for older adults, people with disabilities, and the caregivers, themselves.

Dignity Alliance Massachusetts, a grass-roots coalition of aging and disability service and advocacy organizations and supporters, works to secure fundamental changes in the provision of long-term services, support, and care. A coalition of more than 30 organizations, committed to a new vision of dignity and care for older and disabled people in Massachusetts! Positions are not necessarily the opinions of all members. /

³ <https://www.gao.gov/assets/gao-20-576r.pdf>

⁴ Table 3, page 10: 63.7% = 272 MA nh cited for infection prevention and control deficiencies (427 Total MA nh minus 155 nh with no infection prevention and control deficiencies cited)/427 Total MA nh.

⁵ McKnight's, 7/28/22: <https://www.mcknights.com/news/clinical-news/amda-launches-moving-needles-vaccination-initiative-across-3-ltc-organizations/>