

**ORDER OF THE COMMISSIONER
OF HEALTH AND MENTAL HYGIENE
TO REQUIRE COVID-19 VACCINATION OR TESTING FOR
STAFF IN RESIDENTIAL AND CONGREGATE SETTINGS**

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents, and such order remains in effect; and

WHEREAS, on March 25, 2020, the New York City Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, pursuant to Section 3.01(d) of the New York City Health Code (“Health Code”), the existence of a public health emergency within the City as a result of COVID-19, for which certain orders and actions are necessary to protect the health and safety of the City of New York and its residents, was declared; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board of Health may embrace in the Health Code all matters and subjects to which the power and authority of the Department of Health and Mental Hygiene (the “Department”) extends; and

WHEREAS, pursuant to Section 556 of the Charter and Section 3.01(c) of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, the U.S. Centers for Disease Control (“CDC”) reports that new variants of COVID-19, identified as “variants of concern” have emerged in the United States, and some of these new variants which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible than earlier variants; and

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

WHEREAS, section 17-104 of the Administrative Code of the City of New York directs the Department to adopt prompt and effective measures to prevent the communication of infection diseases such as COVID-19; and

WHEREAS, in accordance with section 17-109(b) of such Administrative Code, the Department may adopt vaccination measures in order to most effectively prevent the spread of communicable diseases; and

WHEREAS, pursuant to Section 3.07 of the Health Code, no person “shall do or assist in any act which is or may be detrimental to the public health or to the life or health of any individual” or “fail to do any reasonable act or take any necessary precaution to protect human life and health;” and

WHEREAS, residential and congregate care settings operated by the City and its contractors provide services to all New Yorkers that are critical to the health, safety, and well-being of City residents, and should take reasonable measure to reduce the transmission of COVID-19 in providing such services; and

WHEREAS, a system of vaccination for individuals working in congregate settings will potentially save lives, protect public health, and promote public safety; and

WHEREAS, pursuant to Section 3.01(d) of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such section; and

WHEREAS on July 21, 2021, I issued an order requiring staff in public healthcare settings to demonstrate proof of COVID-19 vaccination or undergo weekly testing;

NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and hereby order that:

1. Effective August 16, 2021, each staff member or contractor working at a residential or a congregate setting who has not submitted proof of full vaccination against COVID-19 to the agency or contractor for which they work must provide proof of a negative COVID-19 PCR diagnostic test (not an antibody test) at least once per week, to be provided in accordance with city policy..
2. A staff member who provides proof of full vaccination, in accordance with city policy, does not need to submit such proof of a negative test.
3. Within 90 days, the Department shall report to the Board of Health on the implementation of the requirements of this Order and any recommendations to further limit the spread of COVID-19 infection in congregate settings.

For the purposes of this Order:


- (i) “Full vaccination” means at least two weeks have passed after a person received a single-dose of an FDA- or WHO-approved one-dose COVID-19 vaccine or the second dose of an FDA- or WHO-approved two-dose COVID-19 vaccine, except that, for the purposes of this Order, a staff member who provides documentation of having received one dose of any COVID-19 vaccine before August 16, 2021 will be considered fully vaccinated even though two weeks have not passed since their final dose, so long as, if such staff member received a two-dose vaccine, the staff member provides documentation that the second dose has been administered before September 16, 2021.

- (ii) “Residential or congregate setting” means locations where City operated or contracted services are provided in a residential or congregate group setting, and are the following:
- a. Shelters, including but not limited to family shelters, adult shelters, and safe havens, operated by the Department of Homeless Services or its contractors.
 - b. Drop-in centers operated by the Department of Homeless Services or its contractors.
 - c. Domestic violence shelters operated by the Human Resources Administration or its contractors.
 - d. HIV/AIDS Services Administration shelters and supportive housing operated by the Human Resources Administration or its contractors.
 - e. Supportive housing operated by:
 - i. the Human Resources Administration or its contractors; or
 - ii. the Department of Health and Mental Hygiene or its contractors.
 - f. Reentry hotels operated by the Mayor’s Office of Criminal Justice or its contractors.
 - g. Transitional housing sites operated by the Mayor’s Office of Criminal Justice or its contractors.
 - h. Runaway and homeless youth shelters operated by the Department of Youth and Community Development or its contractors.
 - i. Drop-in centers operated by the Department of Youth and Community Development or its contractors.
 - j. Residential juvenile justice programs, including but not limited to secure and non-secure detention and Close to Home programs operated by the Administration for Children’s Services or its contractors.
 - k. Residential foster care operated by the Administration for Children’s Services or its contractors.
 - l. Children’s centers operated by the Administration for Children’s Services or its contractors.
 - m. Senior centers operated by the Department for the Aging or its contractors.
 - n. Naturally occurring retirement community programs operated by the Department for the Aging or its contractors.

- o. Social adult day cares operated by the Department for the Aging or its contractors.
 - p. Jails operated by the Department of Corrections.
- (iii) “Staff member” means (i) a full or part-time employee of a City agency, or a contractor of a City agency, who works in a residential or congregate setting, and (ii) an intern or volunteer who works in-person with such City employee or contractor or with a recipient of services in a residential or congregate setting.

This Order shall be effective immediately and remain in effect until rescinded, subject to the authority of the Board of Health to continue, rescind, alter or modify this Order pursuant to Section 3.01(d) of the Health Code.

Dated: August 10th, 2021



Dave A. Chokshi, M.D., MSc
Commissioner